



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

साप्ताहिक
WEEKLY

सं. 51] नई दिल्ली, दिसम्बर, 14—दिसम्बर, 20, 2003, शनिवार/अग्रहायण 23—अग्रहायण 29, 1925
No. 51] NEW DELHI, DECEMBER 14—DECEMBER 20, 2003, SATURDAY/AGRAHAYANA 23—AGRAHAYANA 29, 1925

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

मंत्रिमंडल सचिवालय

नई दिल्ली, 9 दिसम्बर 2003

का०आ० 3401.—केंद्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 238 पीसीआर 2003 दिनांक 14-11-2003 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से श्री के. उमेश, ऋण लिपिक, सिंडिकेट बैंक, वसंत नगर शाखा, बंगलौर (2) श्री जी. पी. प्रभु, नं. 63/2, सैकेंड टैम्पल-स्ट्रीट, 15वां क्रॉस, मल्लेश्वरम, बंगलौर (3) श्रीमती सुनीता कृष्णा, नं. 22/43, एल आई जी, 7 बी-मेन, येलेहांका न्यू टाउन, बंगलौर (4) श्री ए. श्रीनिवास पुत्र श्री गोपालकृष्ण प्रभु, नं. 2/2, चौथा टैम्पल रोड, 12वां क्रॉस, मल्लेश्वरम, बंगलौर (5) श्री आर. बी. रेवन्ना, नं. 7/1, विवेकानंद नगर, कतरीकुप्पम मेन रोड, बंगलौर और (6) श्री जी. एन. एस. शर्मा, नं. 1343, 9वां क्रॉस, अशोक नगर, बंगलौर एवं अन्य लोक सेवकों अथवा व्यक्तियों के विरुद्ध भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 120-बी सपठित धारा 420 तथा भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 13(2) सपठित धारा 13(1)(डी) के अधीन दंडनीय अपराधों और

उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसक्त प्रयत्नों, दुष्परणों और पडयंत्र तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध अथवा अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/103/2003-डी.एम.पी.ई.]

शुभा ठाकुर, अवसर सचिव,

CABINET SECRETARIAT

New Delhi, the 9th December, 2003

S.O. 3401.—In exercise of the powers conferred by Sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of State Government of Karnataka, vide Notification No. HD 238 PCR 2003 dated 14-11-2003, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences against Shri K. Umesh, Loan Clerk, Syndicate Bank, Vasanth Nagar Branch, Bangalore (2) Shri G.P. Prabhu, No. 63/2, Second

Temple Street, 15th Cross, Malleshwaram, Bangalore (3) Smt. Sunitha Krishna, No. 22/43, L1G, 7th B-Main, Yelahanka New Town, Bangalore (4) Shri A. Srinivas S/o Shri Gopalkrishna Prabhu, No. 2/2, 4th Temple Road, 12th Cross, Malleshwaram, Bangalore (5) Shri R.V. Revanna, No. 7/1, Viveknanda Nagar, Kathrikuppam Main Road, Bangalore and (6) Shri G.N.S. Sharma, No. 1343, 9th Cross, Ashok Nagar, Bangalore and other public servants or persons under Section 120-B read with 420 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and Section 13 (2) read with 13 (1) (d) of Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/103/2003-DSPE]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 13 दिसम्बर 2003

का०आ० 3402.— केंद्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 की अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए बिहार राज्य सरकार के गृह (पुलिस) विभाग की अधिमूचना सं. 1/सीबीआई-80-43-2003एच (पी)/2003/11812 दि. 8 दिसम्बर, 2003 द्वारा प्राप्त बिहार राज्य सरकार की सहमति से दिल्ली विशेष पुलिस स्थापना के सदस्यों और अधिकारिता का विस्तार संपूर्ण बिहार राज्य पर पुलिस स्टेशन रामपुर जिला, गया बिहार में दर्ज हुए एफ. आई. आर सं. 149/03 दिनांक 27-11-03 अंतर्गत धारा 302/120 (पी) भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) एवं शस्त्र अधिनियम की धारा 27 के अधीन तथा उपर्युक्त अपराध से संबंधित अथवा संशक्त प्रयत्न, दुष्प्रेरण और षडयंत्र तथा उन्मी संव्यवहार के अनुक्रम में अथवा उन्हीं तथ्यों से उद्भूत किया गया अथवा किए गए किसी अन्य अपराध अथवा अपराधों का अन्वेषण करने के लिए करती है।

[सं. 228/111/2003-डीएसपीई]

शुभा ठाकुर, अवर सचिव

New Delhi, the 13th December, 2003

S.O. 3402.—In exercise of the powers conferred by Sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Bihar received vide Home (Police) Department Notification No.1/CBI-80-43-2003 H(P)/11812 dated 8th December, 2003, hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Bihar for investigation of FIR No. 149/03 dated 27-11-2003, under Sections 302/120B of the Indian Penal Code, 1860 and 27

Arms Act, registered at Police Station Rampur Distt. Gaya, Bihar relating to the murder of Sh. Satyender Kumar Dubey and attempts, abetments and conspiracy in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts in connection with the aforesaid case.

[No. 228/111/2003-DSPE]

SHUBHA THAKUR, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

केन्द्रीय उत्पाद शुल्क एवं सीमा शुल्क आयुक्तालय

वडोदरा, 14 अक्टूबर, 2003

का०आ० 3403.— भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली द्वारा जारी दिनांक 1-7-94 की अधिसूचना सं. 33/94-कस (एनटी) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं गुजरात राज्य में स्थित गाँव-आसोज, ता. वाघोडिया, जि. वडोदरा को विकास आयुक्त, भारत सरकार, वाणिज्य मंत्रालय, कंडला मुक्त व्यापार क्षेत्र, गांधीधाम द्वारा अनुमोदित केवल 100% निर्यात-मुख्य उपक्रम स्थापित करने के सीमित उद्देश्य के लिए केन्द्रीय सीमा शुल्क अधिनियम, 1962 (1962 का 52) की धारा 9 के तहत एतद्वारा वेयर हाउसिंग स्टेशन घोषित करता हूँ।

[फा. सं. 1/2003-कस. (एनटी)]

राकेश कुमार, आयुक्त

MINISTRY OF FINANCE

(Department of Revenue)

OFFICE OF THE COMMISSIONER, CENTRAL
EXCISE & CUSTOMS

Vadodara, the 14th October, 2003

S. O. 3403.—In exercise of the powers conferred by Notification No. 33/94-CUS (NT) dated 1-7-94 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, I hereby declare Village-Asoj, Tal. Waghodia, Dist. Vadodara in the State of Gujarat to be a Warehousing Station under Section 9 of the Customs Act, 1962 (52 of 1962) for the limited purpose of setting up of 100% Export Oriented Undertaking only, approved by the Development Commissioner, Government of India, Ministry of Commerce, Kandla Free Trade Zone, Gandhidham.

[F. No. 1/2003-CUS(NT)]

RAKESH KUMAR, Commissioner

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 4 दिसम्बर, 2003

का०आ० 3404.—राष्ट्रीयकृत बैंक (प्रबन्ध एवं प्रकीर्ण उपबंध) स्कीम, 1970 के खण्ड 3 के उपखण्ड (1), खण्ड 5, खण्ड

6, खण्ड 7 और खण्ड 8 के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970 की धारा 9 की उपधारा (3) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् श्री एम०बी०एन० राव, जो इस समय इंडियन बैंक में कार्यपालक निदेशक हैं, को उनके कार्यभार ग्रहण करने की तारीख से 30-6-2008 तक अर्थात् उनके अधिवर्षिता की आयु प्राप्त करने की तारीख तक या अगला आदेश होने तक, इनमें से जो भी पहले हो इंडियन बैंक के अध्यक्ष एवं प्रबन्ध निदेशक के रूप में नियुक्त करती है।

[फा० सं० 9/15/2003-बीओ-1]

रमेश चन्द, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 4th December, 2003

S.O. 3404.—In exercise of the powers conferred by clause (a) of Sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, read with sub-clause (1) of clause 3, clause 5, clause 6, clause 7 and sub-clause (1) of clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri M.B.N. Rao, Executive Director, Indian Bank as Chairman and Managing Director, Indian Bank for the period from the date of his taking charge and upto 30-06-2008, i.e. the date of his attaining the age of Superannuation or until further orders, whichever is earlier.

[F. No. 9/15/2003-B.O.-I]

RAMESH CHAND. Under Secy.

नई दिल्ली, 4 दिसम्बर, 2003

का०आ० 3405.—राष्ट्रीयकृत बैंक (प्रबन्ध एवं प्रकीर्ण उपबंध) स्कीम, 1970 के खण्ड 3 के उपखण्ड (1), खण्ड 5, खण्ड 6, खण्ड 7 और खण्ड 8 के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970 की धारा 9 की उपधारा (3) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् श्री ओ० एन० सिंह, जो इस समय कार्यपालक निदेशक बैंक ऑफ इंडिया हैं, को उनके कार्यभार ग्रहण करने की तारीख से 31-7-2006 तक अर्थात् उनके अधिवर्षिता की आयु प्राप्त करने की तारीख तक या अगला आदेश होने तक, इनमें से जो भी पहले हो इलाहाबाद बैंक के अध्यक्ष एवं प्रबन्ध निदेशक के रूप में नियुक्त करती है।

[फा० सं० 9/14/2003-बीओ-1]

रमेश चन्द, अवर सचिव

New Delhi, the 4th December, 2003

S.O. 3405.—In exercise of the powers conferred by clause (a) of Sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, read with sub-clause (1) of clause 3, clause 5, clause 6, clause 7 and sub-clause (1) of clause 8 of the

Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri O. N. Singh, Executive Director, Bank of India, as Chairman and Managing Director, Allahabad Bank for the period from the date of his taking charge and upto 31-07-2006, i.e. the date of his attaining the age of Superannuation or until further orders, whichever is earlier.

[F. No. 9/14/2003-B.O.-I]

RAMESH CHAND. Under Secy.

नई दिल्ली, 5 दिसम्बर, 2003

का०आ० 3406.—भारतीय निर्यात-आयात बैंक अधिनियम, 1981 (1981 का 28) की धारा 5 की उपधारा (2) के खंड (क) के साथ पठित धारा 6 की उपधारा (1)(क) और उपधारा (2) द्वारा प्रदत्त शक्तियों के अनुसरण में, केन्द्रीय सरकार, एतद्वारा श्री टी०सी० वेंकट सुब्रह्मण्यन, प्रबंध निदेशक, भारतीय निर्यात-आयात बैंक को भारतीय निर्यात-आयात बैंक के प्रबंध निदेशक के रूप में उनके कार्यकाल की समाप्ति तक भारतीय निर्यात-आयात बैंक के अध्यक्ष और साथ ही प्रबंध निदेशक के रूप में कार्य करने के लिए नियुक्त करती है।

[फा० सं० 24 (14)/2001-आईएफ-1]

बी० डी० बेरवाल, अवर सचिव

New Delhi, the 5th December, 2003

S.O. 3406.—In exercise of the powers conferred by Sub-section (1) (h) and Sub-section (2) of Section 6 read with clause (a) of sub-section (2) of Section 5 of the Export-Import Bank of India Act, 1981 (28 of 1981), the Central Government hereby appoints Shri T.C. Venkat Subramanian, Managing Director, Export-Import Bank of India to function as Chairman as well as MD of the Exim Bank for remainder of his term as MD, Exim Bank.

[F. No. 24 (14)/2001-IF. I]

B. D. BERWAL. Under Secy.

संचार और सूचना प्रौद्योगिकी मंत्रालय

(दूरसंचार विभाग)

(राजभाषा अनुभाग)

नई दिल्ली, 11 दिसम्बर, 2003

का०आ० 3407.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित-1987) के नियम 10(4) के अनुसरण में संचार और सूचना प्रौद्योगिकी मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत से अधिक कर्मचारियों को हिंदी का कार्यसाधक ज्ञान प्राप्त है, भारत के राजपत्र में अधिसूचित किया गया है। चूंकि अब भारत संचार निगम लिमिटेड के गठन के पश्चात् उनके नाम एवं स्तर में परिवर्तन आया है अतः उन्हें अब निम्नवत पढ़ा जाए :

**मुख्य महाप्रबंधक दूरसंचार, भारत संचार निगम लिमिटेड,
उत्तरांचल परिमण्डल, देहरादून**

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|--|---|
| 1. मुख्य महाप्रबंधक दूरसंचार, भारत संचार निगम लिमिटेड, उत्तरांचल परिमण्डल, विंडलास कॉम्प्लेक्स, तीसरी मंजिल राजपुर रोड, देहरादून | पहले से अधिसूचित सं. ई 11016/1/95- रा.भा. दिनांक 2-12-97 |
| 2. दूरसंचार जिला कार्यालय, भा.सं.नि.लि. अल्मोड़ा, उत्तरांचल परिमण्डल, देहरादून | पहले से अधिसूचित सं. ई 11027/2/88- रा.भा. दिनांक 24-11-91 |
| 3. दूरसंचार जिला कार्यालय, भा.सं.नि.लि. हरिद्वार, उत्तरांचल परिमण्डल, देहरादून | पहले से अधिसूचित सं. ई 11027/2/88- रा.भा. दिनांक 28-10-88 |

[सं. ई. 11016/1/2002-रा.भा.]

हरीश चन्द्र जयाल, संयुक्त सचिव

**MINISTRY OF COMMUNICATIONS AND
INFORMATION TECHNOLOGY**

(Department of Telecommunications)

(Official Language section)

New Delhi, the 11th December, 2003

S.O. 3407.—In pursuance of rule 10 (4) of the Official Language (Use for official purpose the Union), Rules, 1976 (as amended, 1987) the Central Government has notified the following Offices under the administrative control of Ministry of Communications and Information Technology, Department of Telecommunications where of more than 80% staff have acquired working knowledge of Hindi. After the formation of BSNL, the name and status of these offices have since been changed and now the same may be read as under :—

**Chief General Manager, BSNL, Uttaranchal Circle,
Dehradun**

- | | |
|---|--|
| 1. Chief General Manager, BSNL, Already notified Uttaranchal Circle. Windlas Complex, 3rd Floor, Rajpur Road, Dehradun | No. E. 11016/1/95- O.L. Dt. 2-12-97 |
| 2. Telecom District Office, BSNL, Almora, Uttaranchal Circle, Dehradun | Already Notified No. E-11027/2/88- O.L. Dt. 24-11-91 |
| 3. Telecom District Office, BSNL, Haridwar, Uttaranchal Circle, Dehradun | Already Notified No. E-11027/2/88- O.L. Dt. 28-10-88 |

[No. E. 11016/1/2002 (O. L.)]

HARISH CHANDRA JAYAL, Jt. Secy.

विद्युत मंत्रालय

नई दिल्ली, 4 दिसम्बर, 2003

का. आ. 3408.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम

(4) के अनुसरण में पावरग्रिड कारपोरेशन ऑफ इंडिया लि., गुड़गांव के नियंत्रणाधीन पावरग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड, 400/220 के.वी. म्हापसा उप केन्द्र, चिखलिम गांव के पास, पो. कोलवाल, बारडेज, गोवा-403 513 को, जिसके 80 प्रतिशत कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करता है।

[सं. 11017/2/94-हिन्दी]

अजय शंकर, संयुक्त सचिव

MINISTRY OF POWER

New Delhi, the 4th December, 2003

S.O. 3408.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (use for official purposes of the Union) Rules, 1976 the Central Government hereby notifies the Powergrid Corporation of India Ltd., 400/220 KV, Mhapasa Sub Station, Near Chikhlim Village, Post Kolwal, Bardez, Goa - 403 513 under the control of Powergrid Corporation of India Ltd., Gurgaon. the staff whereof have acquired 80% working knowledge of Hindi.

[No. 11017/2/94-HINDI]

AJAY SHANKAR, Jt. Secy.

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 2 दिसम्बर, 2003

का.आ. 3409.—रेल मंत्रालय (रेलवे बोर्ड), राजभाषा नियम 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम 10 के उपनियम (2) और (4) के अनुसरण में पूर्वोत्तर सीमा रेलवे के अलीपुरद्वार मंडल के निम्नलिखित दो कार्यालयों को, जहां 80% या उससे अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करता है :—

पूर्वोत्तर सीमा रेलवे (अलीपुरद्वार मंडल)

1. स्टेशन अधीक्षक कार्यालय, अलीपुरद्वार जंक्शन
2. मंडल चिकित्सा अधिकारी कार्यालय, न्यू कूच बिहार।

[सं. हिंदी 2003/रा.भा. 1/12/3]

आर.आर. भंडारी, सचिव

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 2nd December, 2003

S.O. 3409.—Ministry of Railways (Railway Board), in pursuance of sub-rules (2) and (4) of Rule 10 of the Official Language Rules, 1976 (use for the official purposes of the Union) hereby, notify the following Offices of Alipurwar Division of Northeast-Frontier Railway, where 80% or more Officers/Employees have acquired the working knowledge of Hindi :—

Northeast-Frontier Railway (Alipurwar Division)

1. Station Supdt. Office, Alipurwar Junction
2. Divisional Medical Officer's Office, New Cooch Behar.

[No. Hindi-2003/OL-1/12/3]

R. R. BHANDARI, Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

नई दिल्ली, 5 दिसम्बर, 2003

का. आ. 3410.— केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976(1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स विशाल स्केल प्रोडक्ट्स, ए वी-78, अमरपुरी, रामानगर, नई दिल्ली-110055 द्वारा विनिर्मित काउंटर मशीन के मॉडल का, जिसके ब्रांड का नाम "विशाल" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/448 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है;

उक्त मॉडल (नीचे दी गई आकृति देखें) एक काउंटर मशीन है। इसकी अधिकतम क्षमता 15 कि.ग्रा. है।



और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त डिजाइन के अनुसार और उसी सामग्री से विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 500 ग्रा. से 50 कि.ग्रा. तक की रेंज के अधिकतम क्षमता वाले हैं।

[फा. सं. डब्ल्यू एम-21(10)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

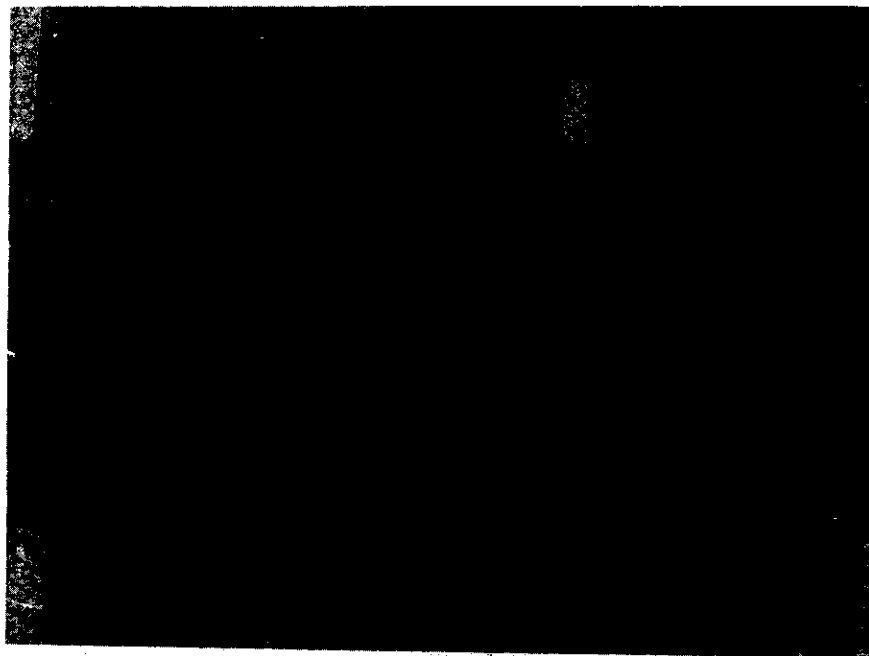
MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)**

New Delhi, the 5th December, 2003

S.O. 3410.— Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of a counter machine with brand name Vishal™ (herein referred to as the said model), manufactured by M/s. Vishal Scale Products, AB-78, Amarpuri, Rama Nagar, New Delhi-110 055 and which is assigned the approval mark IND/09/2003/448;

The said model (see figure given below) is a counter machine. Its maximum capacity is 15 kg.



Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity in the range of 500 g to 50 kg, manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the approved Model has been manufactured.

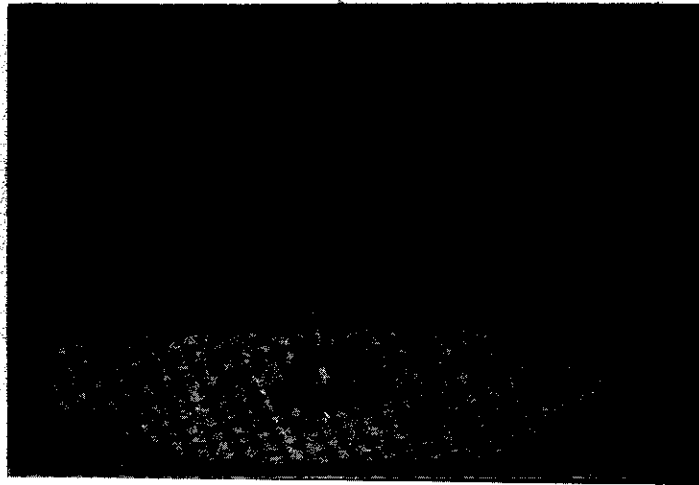
[F.No. WM-21(10)/2003]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 15 दिसम्बर, 2003

का.आ. 3411.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स फोनिकस मेडिकल सिस्टम्स (प्रा.) लि., 32/4, जवाहरलाल नेहरू सलाई, इकट्टूथंगल, चेन्नई-600097 द्वारा विनिर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग II) वाले "101 बी डब्ल्यू एस" शृंखला के अस्वचालित, अंकक सूचन सहित तोलन उपकरण (शिशु तोलक-टेबल टाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "फोनिकस" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/436 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।



उक्त मॉडल (नीचे दी गई आकृति देखें) एक विकृतमापी प्रकार का भारसेल आधारित, अधिकतम क्षमता 15 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. सहित (शिशु तोलक-टेबल टाप प्रकार) अस्वचालित तोलन उपकरण है। सत्यापन मापमान अंतराल (ई) का मान 1 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को सील करने के अतिरिक्त, कपटपूर्ण व्यवहार के लिए मशीन को खोलने से रोकने के लिए सीलबंद की जाएगी।

और केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत, उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 100 से 50,000 तक की रेंज में सत्यापन मान, अंतराल (एन) की संख्या सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$ है, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

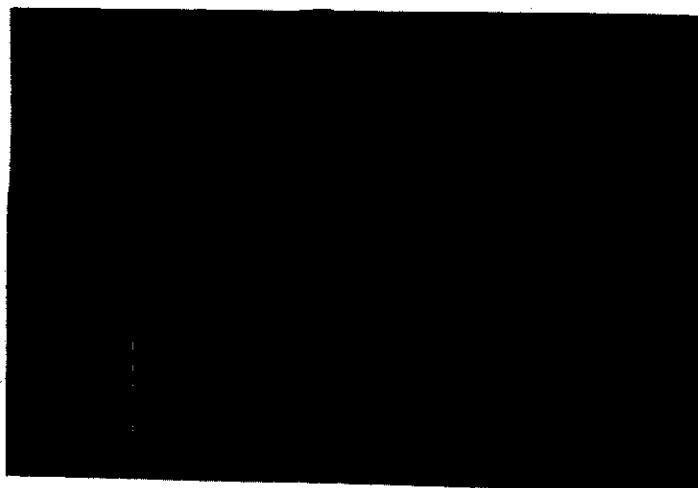
[फा. सं. डब्ल्यू. एम.-21(2)/2003]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2003

S.O. 3411.— Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (See the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic (Table top type-Baby weigher) weighing instrument with digital indication of "101BWS" series of high accuracy (accuracy class-II) and with brand name "PHOENIX" (herein referred to as the said model), manufactured by M/s. Phonix Medical Systems (P) Ltd., 32/4, Jawaharlal Nehru Salai, Ekkattuthangal, Chennai-600097 and which is assigned the approval mark IND/09/2003/436;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type-Baby weigher) with a maximum capacity of 15 kg. and minimum capacity 100g. The verification scale interval (e) is 1 g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 V, 50-Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50 kg. with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 100 mg. or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , k, being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21(2)/2003]

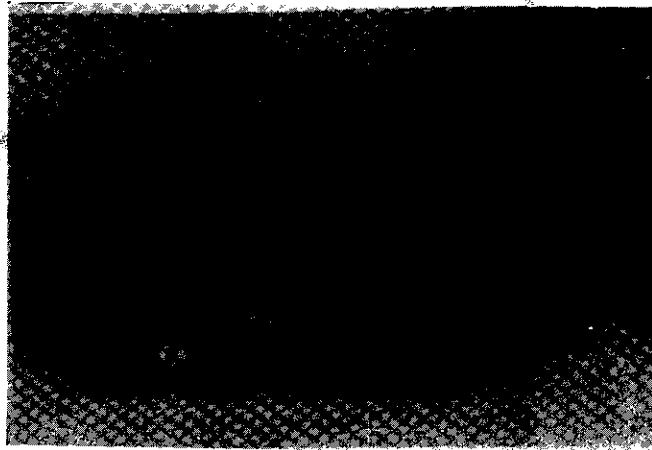
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 15 दिसम्बर, 2003

का. आ. 3412.— केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का और उपधारा (8) का प्रयोग करते हुए, मैसर्स कारसन माथा एंड सन्स, सब्जी बाजार के पीछे, सावरकुण्डला-364515 द्वारा विनिर्मित काउंटर मशीन के मॉडल का, जिसके ब्रांड का नाम "कारसन माथा एंड संस" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/473 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल (दी गई आकृति देखें) एक काउंटर मशीन है। इसकी अधिकतम क्षमता 10 कि.ग्रा. है।



और केन्द्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त डिजाइन के अनुसार और उसी सामग्री से विनिर्मित जिससे अनुमोदित मॉडल का विनिर्माण किया गया है उसी श्रृंखला के उसी मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 500ग्रा. से 50 कि.ग्रा. तक की रेंज की अधिकतम क्षमता वाले हैं।

[फा. सं. डब्ल्यू एम-21(274)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2003

S. O. 3412.— Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of sections 36 of the said Act the Central Government hereby publishes the certificate of approval of the Model of a counter machine with brand name "Karsan Madha and sons." (herein referred to as the Model), manufactured by M/s Karsan Madha and sons., Behind Vegetable Market, Savarkundla-364 515, and which is assigned the approval mark IND/09/2003/473;

The said Model (see the figure given) is a counter machine. Its maximum capacity is 10kg.



Further, in exercise of the powers conferred by sub-section (12) of said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity in the range of 500g to 50kg, manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the approved Model has been manufactured.

[F.No.WM-21(274)/2002]

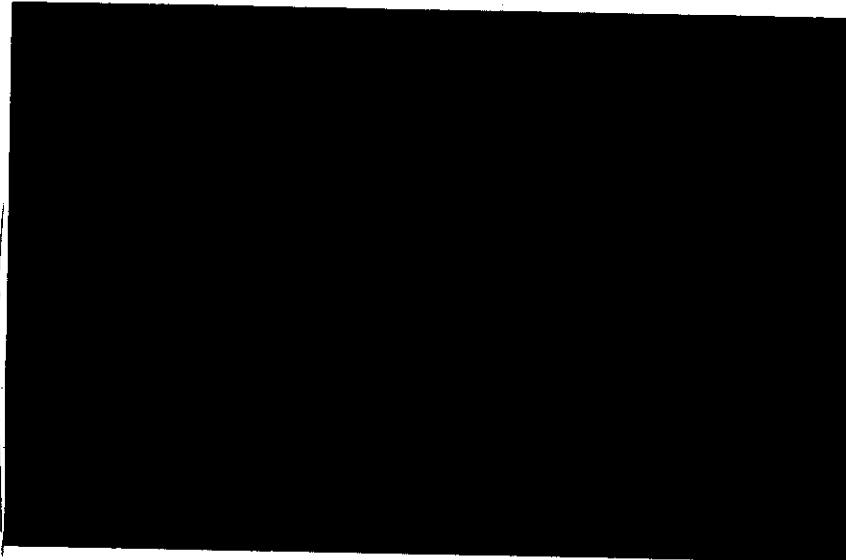
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 15 दिसम्बर, 2003

का. आ. 3413.— केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स जसमिन ग्रुप, एफ-4, अमी अखंडानंद, सी टी एम हाई वे, अमराइवादी, अहमदाबाद-26 काउंटर मशीन के मॉडल का, जिसके ब्रांड का नाम "विराट" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/477 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (दी गई आकृति देखें) एक काउंटर मशीन है जिसकी अधिकतम क्षमता 5 कि.ग्रा. है।



और केन्द्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त डिजाइन के अनुसार और उसी सामग्री से विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 500 ग्रा. से 50 कि.ग्रा. तक की रेंज की अधिकतम क्षमता वाले हैं।

[फा. सं. डब्ल्यू एम-21(56)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2003

S. O. 3413.— Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of a counter machine with brand name "Virat" (herein referred to as the Model), manufactured by M/s Jasmin Group, F-4, Ami Akhandanand, CTM Highway, Amraiwadi, Ahmedabad-26, and which is assigned the approval mark IND/09/2003/477;

The said Model (see the figure given) is a counter machine. Its maximum capacity is 5 kg.



Further, in exercise of the powers conferred by sub-section (12) of said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity in the range of 500g to 50kg, manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the approved Model has been manufactured.

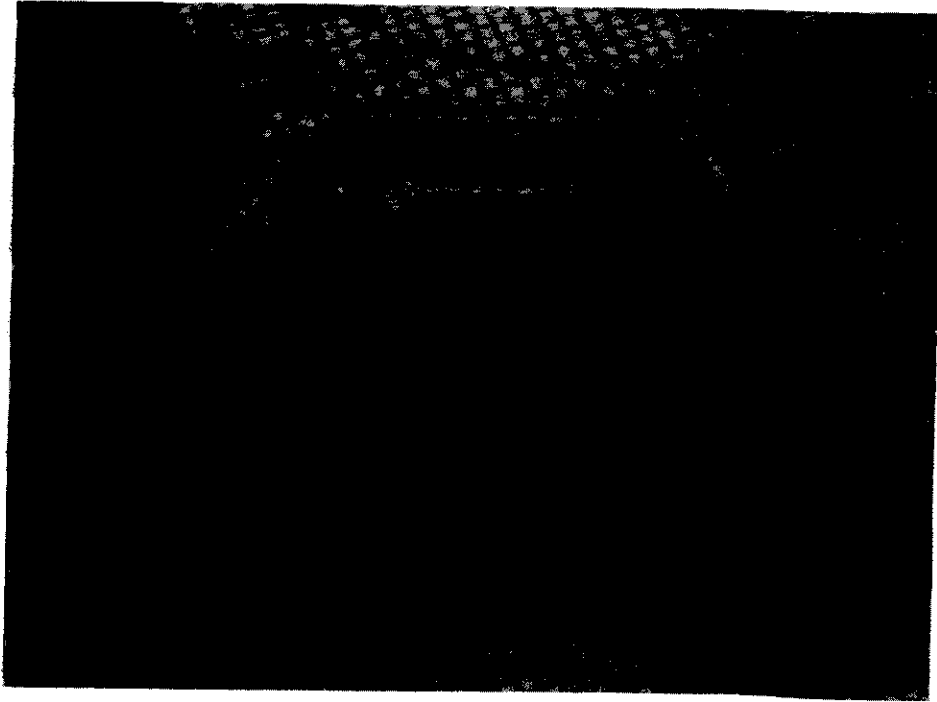
[F.No. WM-21(56)/2002]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 15 दिसम्बर, 2003

का.आ. 3414.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स सिस्ट्रान माइक्रो सिस्टम्स, बी-9, बालाजी एवन्यू, जेजेस बंगला रोड, वस्त्रपुर, सेटेलाइट, अहमदाबाद-380015 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाले "सिस्ट्रान" श्रृंखला के अस्वचालित, सदृश सूचन सहित तोलन उपकरण (वे ब्रिज-स्टील यार्ड प्रकार) के मॉडल का, जिसके ब्रांड का नाम "सिस्ट्रान" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/425 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;



यह मॉडल एक यांत्रिक अस्वचालित (यथार्थता वर्ग) जिसकी अधिकतम क्षमता 50 टन और न्यूनतम क्षमता 100 कि. ग्रा. सहित (वे ब्रिज-स्टील यार्ड प्रकार) है। सत्यापन मापमान अंतराल (ई) का मान 5 कि. ग्रा. है।

स्टाम्पिंग प्लेट को सीलबंद करने के अतिरिक्त, कपटपूर्ण व्यवहार के लिए मशीन को खोलने से रोकने के लिए भी सीलबन्दी की गई है।

और केंद्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार, और उसी सामग्री से विनिर्मित जिससे अनुमोदित मॉडल का विनिर्माण किया गया है उसी श्रृंखला के उसी मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि. ग्रा. या उससे अधिक के "ई" मान के लिए 100 से 10000 तक की रेंज में सत्यापन मापमान अंतराल (एन) की संख्या सहित 5 टन से 100 टन के बीच की रेंज की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^4 , 2×10^4 या 5×10^4 हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

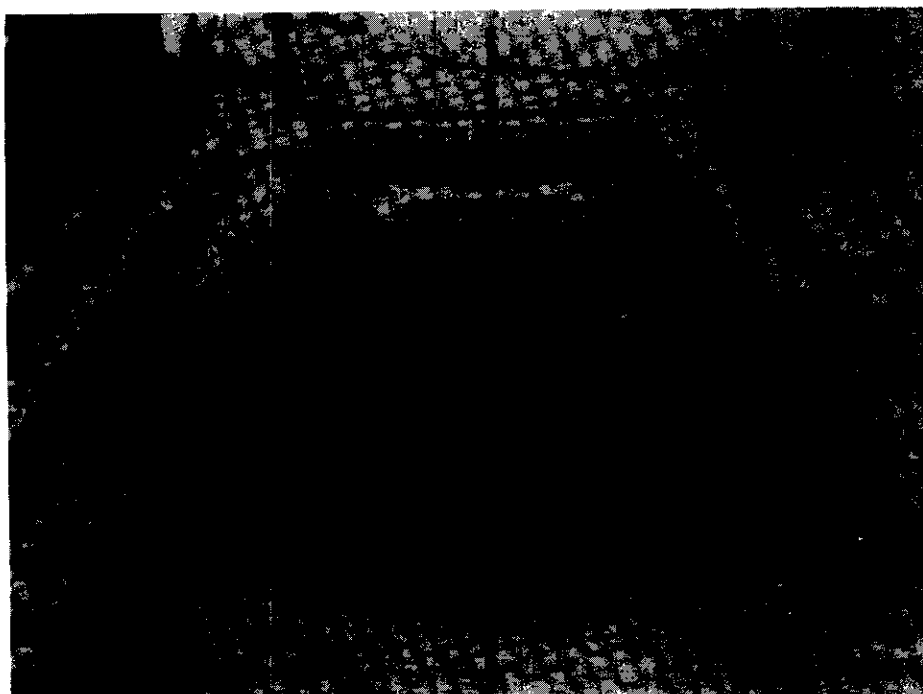
[फा. सं. डब्ल्यू. एम.-21(224)/2002]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2003

S.O. 3414.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic (Weighbridge-steelyard type) weighing instrument with analogue indication of "Systron" series of medium accuracy (accuracy class-III) and with brand name "Systron" (herein referred to as the Model), manufactured by M/s. Systron Micro Systems, B-9, Balaji Avenue, Judges Bungalow Road, Vastrapur, Satellite, Ahmedabad-380015, Gujarat and which is assigned the approval mark IND/09/2003/425;



The Model is a mechanical non-automatic weighting instrument (Weighbridge-Steelyard type) with a maximum capacity of 50 tonnes and minimum capacity of 100 kg. The verification scale interval (e) is 5 kg.

In addition to sealing the stamping plate, sealing is also done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of the said Section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity ranging between 5 tonnes and 100 tonnes with verification scale interval(n) in the range of 100 to 10000 for 'e' value of 5 kg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(224)/2002]

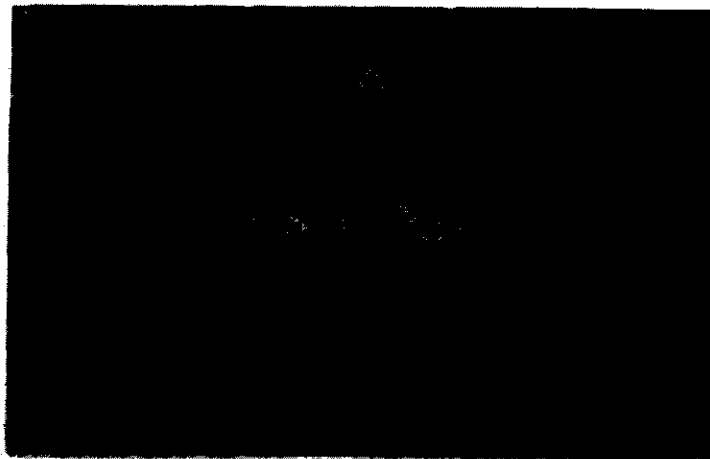
P.A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 15 दिसम्बर, 2003

का.आ. 3415.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स सुपर स्टार स्केल, कृष्णा नगर (बागू), 512 एच, विजय नगर, गाजियाबाद (उ. प्र.) द्वारा विनिर्मित काउंटर मशीन के मॉडल का, जिसके ब्रांड का नाम "सुपर स्टार स्केल" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/469 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

उक्त मॉडल (नीचे दी गई आकृति देखें) एक काउंटर मशीन है। इसकी अधिकतम क्षमता 5 कि. ग्रा. है।



और केन्द्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार, और उसी सामग्री से विनिर्मित जिससे अनुमोदित मॉडल का विनिर्माण किया गया है उसी श्रृंखला के उसी मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 500 ग्रा. से 50 कि. ग्रा. तक की रेंज की अधिकतम क्षमता वाले हैं।

[फा. सं. डब्ल्यू. एम.-21(235)/2002]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2003

S.O. 3415.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of a counter machine with brand name "Super Star Scale" (herein referred to as the Model), manufactured by M/s. Super Star Scale, Krishna Nagar (Bagu), 512H, Vijay Nagar, Ghaziabad (U.P.) and which is assigned the approval mark IND/09/2003/469:

The said Model (see the figure given below) is a counter machine. Its maximum capacity is 5 kg.



Further, in exercise of the powers conferred by Sub-section (12) of the said Section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity in the range of 500g to 50 kg, manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(235)/2002]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

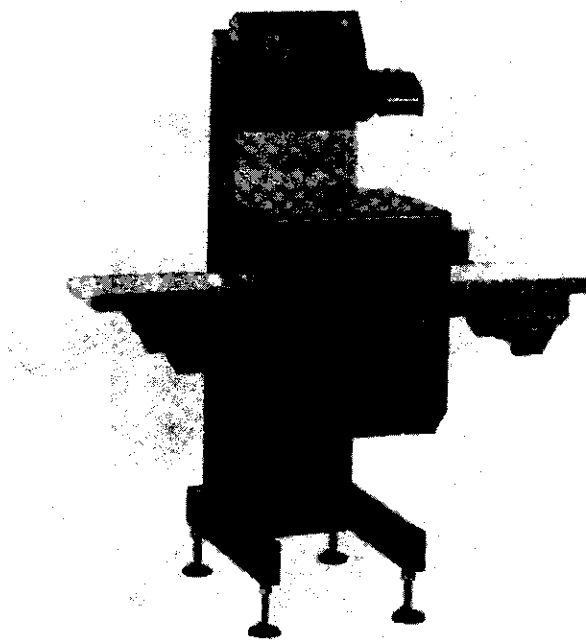
नई दिल्ली, 15 दिसम्बर, 2003

का. आ. 3416.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मेटलर—टोलिडो इंडिया प्रा. लि., अमर हिल्स, साकी विहार रोड, पोवई, मुंबई-400072 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाले "एम टी-एस" शृंखला के स्वतःसूचक अस्वचालित अंकक सूचन सहित तोलन उपकरण के मॉडल का, जिसके ब्रांड का नाम "गार्वेन्स" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/401 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

उक्त माडल (नीचे दी गई आकृति देखें) एक विकृतमापी भार सेल आधारित है। जिसकी अधिकतम क्षमता 500 ग्रा. और न्यूनतम क्षमता 2 ग्रा. सहित अस्वचालित तोलन उपकरण है। सत्यापन मापमान अंतराल (ई) का मान 0.1 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। द्रव क्रिस्टल प्रदर्श तोलन परिणाम उपदर्शित करता है। उसका 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को सीलबंद करने के अतिरिक्त, कपटपूर्ण व्यवहार के लिए मशीन को खोलने से रोकने के लिए भी सीलबन्दी की जाएगी।



और केन्द्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त माडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत डिजाइन के अनुसार, और उसी सामग्री से विनिर्मित जिससे अनुमोदित माडल का विनिर्माण किया गया है उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. या उससे अधिक के 'ई' मान के लिए 100 से 10000 तक की रेंज में सत्यापन मापमान अंतराल (एन) की संख्या 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू. एम.-21(281)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

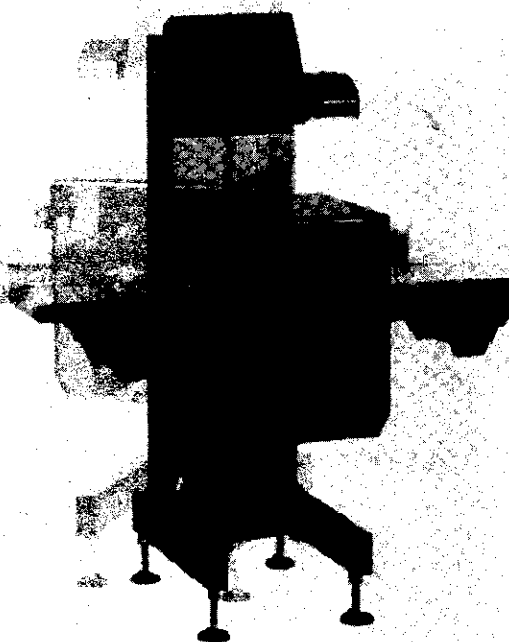
New Delhi, the 15th December, 2003

S.O. 3416.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the self indicating, non-automatic weighing instrument with digital indication of "MT-S" series of medium accuracy (accuracy class-III) and with brand name "Garvens" (hereinafter referred to as the said model), manufactured by M/s. Mettler-Toledo India Pvt. Ltd., Amar Hills, Saki Vihar Road, Powai, Mumbai-400 072 and which is assigned the approval mark IND/09/2003/401;

The said model (See the figure given below) is a strain gauge load cell based non-automatic weighing instrument with a maximum capacity of 500g and minimum capacity of 2g. The verification scale interval (e) is 0.1g. It has a tare device with a 100 per cent subtractive retained tare effect. The liquid crystal display (LCD) indicates the weighing result. The instrument operates on 230V, 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 30kg with verification scale interval(n) in the range of 100 to 10000 for 'e' value of 100 mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(281)/2002]

P.A. KRISHNAMOORTHY, Director, Legal Metrology

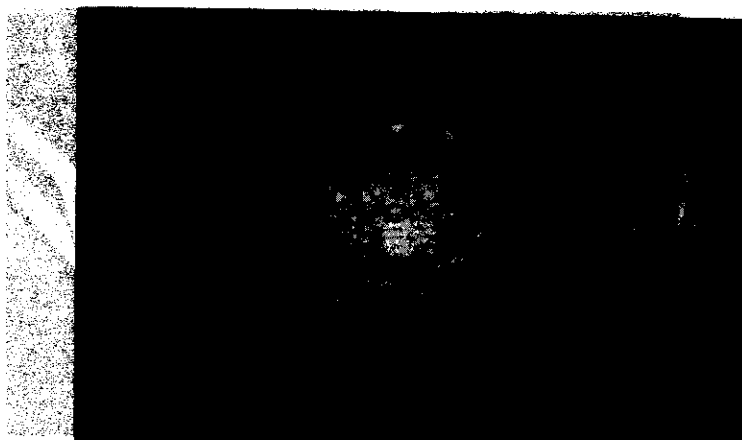
नई दिल्ली, 15 दिसम्बर, 2003

का. आ. 3417.—केंद्रीय सरकार का, विहित अधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह संकेतन किया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स कोसात क्रिसप्लांट, 302, बिटेज काम्पलेक्स, रोड सं. 5, बंजारा हिल्स, हैदराबाद-500034 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथावर्त वर्ग III) वाले "सी यू सी-ई एक्स" शृंखला के स्वतः सूचक, अस्वचालित अंकक सूचन सहित तोलन उपकरण (एल पी जी सिलेंडर तोलन मशीन प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "कोसान" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/341 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

उक्त माडल (नीचे दी गई आकृति देखें) एक विकृतमापी प्रकार का भार सेल आधारित अधिकतम क्षमता 120 कि.ग्रा. और न्यूनतम क्षमता 2 कि.ग्रा. सहित (एल पी जी सिलेंडर तोलन मशीन—प्लेटफार्म प्रकार) अस्वचालित तोलन उपकरण है। सततप्रवृत्ति मापमान अंतराल (ई) का मान 100 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्तनात्मक धारित आधेयतुलन प्रभाव है। इव क्रिस्टल (एल सी डी) प्रदर्श तोलन परिणाम उपदेशित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को सील करने के अतिरिक्त, कपटपूर्ण व्यवहार के लिए मशीन को खोलने से रोकने के लिए भी सीलबंदी की जाएगी।



और केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त माडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत डिजाइन के अनुसार और उसी सामग्री से विनिर्मित इसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 50 ग्रा. या उससे अधिक के (ई) मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान, अंतराल (एन) की संख्या सहित 50 कि.ग्रा. से अधिक और 300 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और 'ई' मान 1×10^3 , 2×10^3 या 5×10^3 हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू. एम.-21(172)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th December, 2003

S.O. 3417.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the self indicating, non-automatic (Platform type-LPG Cylinder weighing machine) weighing instrument with digital indication of "CUC-Ex" series of medium accuracy (accuracy class-III) and with brand name "Kosan" (herein referred to as the said model), manufactured by M/s. Kosan Crisplant, 302, Vintage Complex, Road No. 5, Banjara Hills, Hyderabad-500 034 and which is assigned the approval mark IND/09/2003/341;

The said model (See the figure given below) is a strain gauge type load cell based non-automatic weighing instrument (Platform type-LPG Cylinder weighing machine) with a maximum capacity of 120 kg and minimum capacity of 2kg. The verification scale interval (e) is 100g. It has a tare device with a 100 per cent subtractive retained tare effect. The liquid crystal display (LCD) indicates the weighing result. The instrument operates on 230V, 50Hz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg and up to 300kg with verification scale interval (n) in the range of 500 to 10000 for 'e' value of 50g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(172)/2002]

P.A. KRISHNAMOORTHY, Director, Legal Metrology

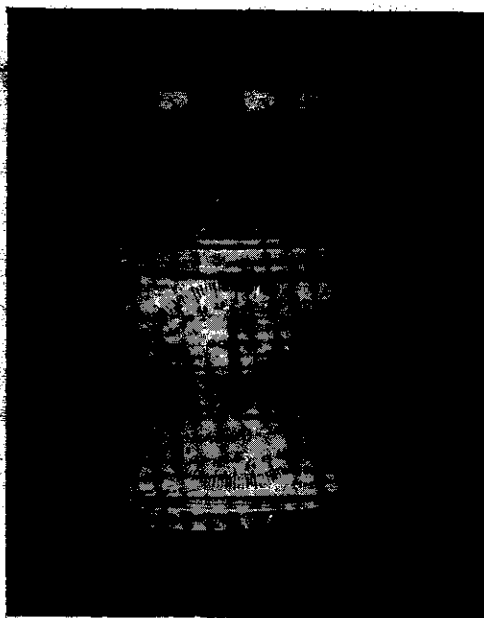
नई दिल्ली, 15 दिसम्बर, 2003

का. आ. 3418.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स ओजोन ओवरसीज लि. 3/46ए, पश्चिम पंजाबी बाग, नई दिल्ली-110026 द्वारा विनिर्मित सामान्य यथार्थता वर्ग (यथार्थता वर्ग IV) वाले "के सी के" शृंखला के स्वतःसूचक, अस्वचालित, संदृश सूचन सहित तोलन उपकरण (किचन संबंधी तोलन तुला प्रकार) के मॉडल का, जिसके ब्रांड का नाम "इक्वीनॉम्स" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/396 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है;

यह मॉडल एक अस्वचालित यांत्रिक तोलन उपकरण (रसोई तुला) है जिसमें स्प्रिंग क्रियाविधि सम्मिलित है। इसकी अधिकतम क्षमता 3 कि.ग्रा. और न्यूनतम क्षमता 200 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 20 ग्रा. है।

सीलबन्दी: स्टाम्पिंग प्लेट को सील करने के अतिरिक्त, कपटपूर्ण व्यवहार के लिए मशीन को खोलने से रोकने के लिए भी सीलबन्दी की जाएगी।



और केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत डिजाइन के अनुसार और उसी सामग्री से विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के 'ई' मान के लिए 100 से 1,000 तक की रेंज में सत्यापन मान, अंतराल (एन) की संख्या सहित 10 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और 'ई' मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू. एम.-21(64)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

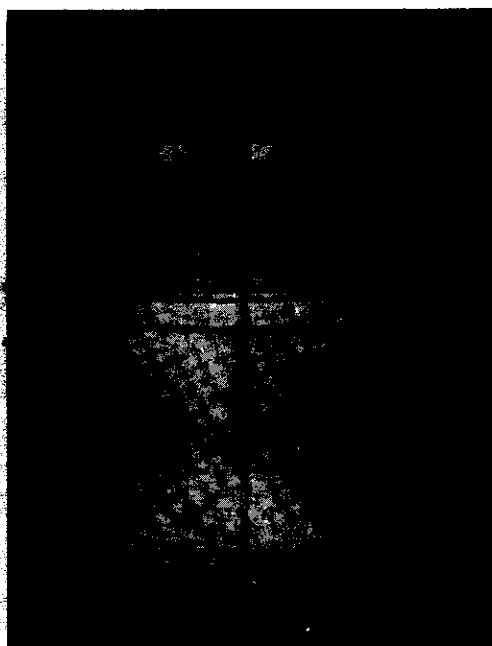
New Delhi, the 15th December, 2003

S.O. 3418.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the self-indicating, non-automatic Mechanical (kitchen weighing scale type) weighing instrument of 'KCK' series with analogue indication of ordinary accuracy (Accuracy class-III) and with brand name "Equinox" (herein referred to as the said model), manufactured by M/s. Ozone Overseas Ltd. 3/46 A, West Punjabi Bagh, New Delhi-110 026 and which is assigned the approval mark IND/09/2003/396;

The Model is a non-automatic Mechanical Weighing Instrument (kitchen scale) incorporated with spring mechanism. Its maximum capacity is 3kg and the minimum capacity is 200g and value of verification scale interval is 20g.

Sealing : In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of same make, accuracy with maximum capacity upto 10kg with number of verification scale interval 'n' in the range of 100 to 1000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or zero manufactured by the same manufacturer with the same principle, design, accuracy and with the same materials with which, the approved said Model has been manufactured.

[F. No. WM-21(64)/2001]

P.A. KRISHNAMOORTHY, Director, Legal Metrology

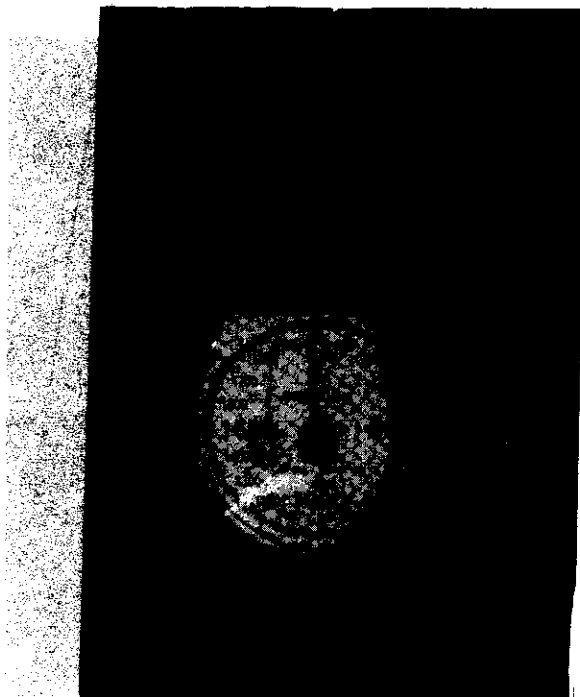
नई दिल्ली, 15 दिसम्बर, 2003

का. आ. 3419.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स ओजोन ओवरसीज लि. 3/46ए, पश्चिम पंजाबी बाग, नई दिल्ली-110026 द्वारा विनिर्मित सामान्य यथार्थता वर्ग (यथार्थता वर्ग IV) वाले "के सी ई" श्रृंखला के स्वतःसूचक, अस्वचालित, संदृश सूचन सहित तोलन उपकरण (किचन संबंधी तोलन तुला प्रकार) के मॉडल का, जिसके ब्रांड का नाम "इक्वीनॉम्स" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/395 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल एक अस्वचालित यांत्रिक तोलन उपकरण (रसोई तुला) है जिसमें स्प्रिंग क्रियाविधि सम्मिलित है। इसकी अधिकतम क्षमता 2 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 10 ग्रा. है।

सीलबन्दी: स्टाम्पिंग प्लेट को सील करने के अतिरिक्त, कपटपूर्ण व्यवहार के लिए मशीन को खोलने से रोकने के लिए भी सीलबन्दी की जाएगी।



और केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त डिजाइन के अनुसार और उसी सामग्री से विनिर्मित उसी श्रृंखला के जैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के 'ई' मान के लिए 100 से 1,000 तक की रेंज में सत्यापन मान, अंतराल (एन) की संख्या सहित 10 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और 'ई' मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$ के हैं, जो घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू. एम.-21(64)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

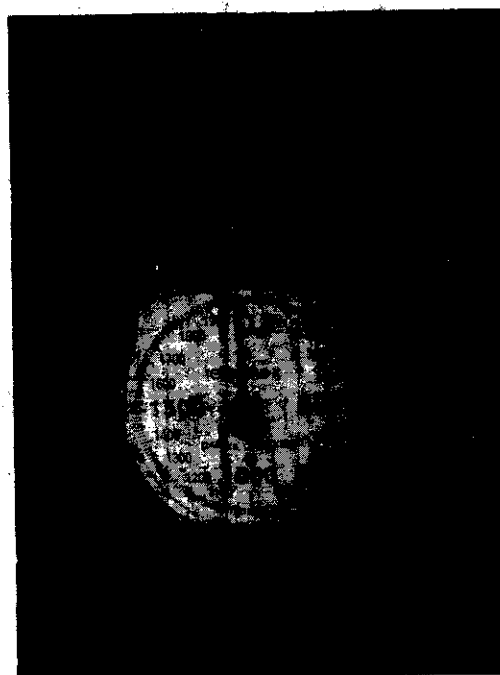
New Delhi, the 15th December, 2003

S.O. 3419.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the self-indicating, non-automatic Mechanical (kitchen weighing scale type) weighing instrument of 'KCE' series with analogue indication of ordinary accuracy (Accuracy class-III) and with brand name "Equinox" (hereinafter referred to as the said Model), manufactured by M/s. Ozone Overseas Ltd. 3/46 A, West Punjabi Bagh, New Delhi-110 026 and which is assigned the approval mark IND/09/2003/395;

The Model is a non-automatic Mechanical Weighing Instrument (kitchen scale) incorporated with spring mechanism. Its maximum capacity is 2kg and the minimum capacity is 100g. and value of verification scale interval is 10g.

Sealing: In addition to sealing the stamping plate, sealing shall be done to prevent the opening of the machine for fraudulent practices.;



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of same make, accuracy with maximum capacity upto 10kg with number of verification scale interval 'n' in the range of 100 to 1000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or zero manufactured by the same manufacturer with the same principle, design, accuracy and with the same materials with which, the approved said Model has been manufactured.

[F. No. WM-21(64)/2001]

P.A. KRISHNAMOORTHY, Director, Legal Metrology

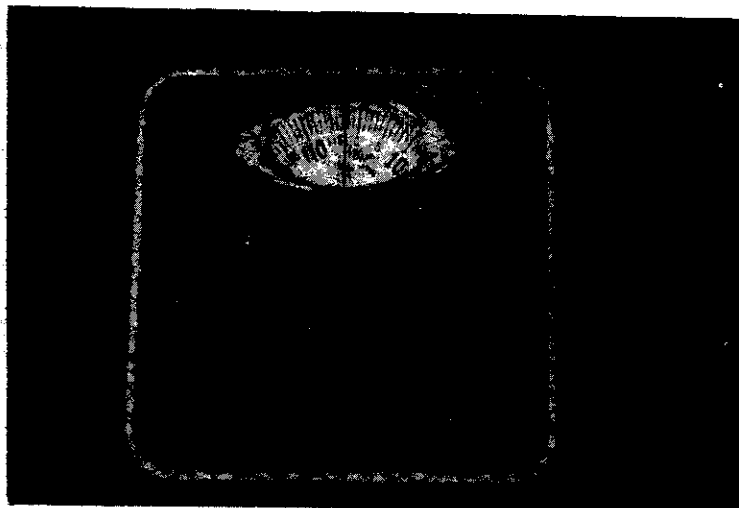
नई दिल्ली, 15 दिसम्बर, 2003

का. आ. 3420.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स ओजोन ओवरसीज लि. 3/46ए, पश्चिम पंजाबी बाग, नई दिल्ली-110026 द्वारा विनिर्मित सामान्य यथार्थता वर्ग (यथार्थता वर्ग IV) वाले "बी आर 9015" शृंखला के स्वतः सूचक, अस्वचालित, संदृश सूचन सहित तोलन उपकरण (व्यक्ति तोलन तुला प्रकार) के मॉडल का, जिसके ब्रांड का नाम "इक्वीनॉम्स" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/393 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है;

यह मॉडल एक अस्वचालित यांत्रिक तोलन उपकरण (व्यक्ति तोलन तुला) है जिसमें स्प्रिंग क्रियाविधि सम्मिलित है। इसकी अधिकतम क्षमता 120 कि.ग्रा. और न्यूनतम क्षमता 10 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 1 कि. ग्रा. है।

सीलबन्दी: स्टाम्पिंग प्लेट को सील करने के अतिरिक्त, कपटपूर्ण व्यवहार के लिए मशीन को खोलने से रोकने के लिए भी सीलबन्दी की गई।



और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत डिजाइन के अनुसार और उसी सामग्री से विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 50 ग्रा. या उससे अधिक के 'ई' मान [50 ग्रा. (ई)] के लिए 100 से 1,000 तक की रेंज में सत्यापन मान, अंतराल (एन) की संख्या सहित 120 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और 'ई' मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$ के हैं, जो घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू. एम.-21(64)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

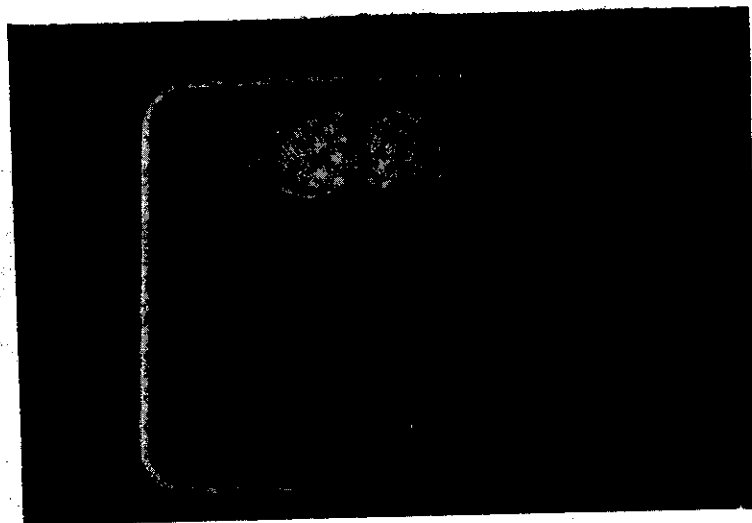
New Delhi, the 15th December, 2003

S.O. 3420.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of the self-indicating, non-automatic Mechanical (personal weighing scale type) weighing instrument of 'BR 9015' series with analogue indication of ordinary accuracy (Accuracy class-III) and with brand name "Equinox" (hereinafter referred to as the said model), manufactured by M/s. Ozone Overseas Ltd. 3/46 A, West Punjabi Bagh, New Delhi-110 026 and which is assigned the approval mark IND/09/2003/393;

The Model is a non-automatic Mechanical weighing Instrument (Person weighing machine type) incorporated with spring mechanism. Its maximum capacity is 120kg and the minimum capacity is 10kg and value of verification scale interval is 1 Kg.

Sealing: In addition to sealing the stamping plate, sealing is done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of same series with maximum capacity upto 120kg with number of scale interval 'n' in the range of 100 to 1000 corresponding to 'e' value of 50g or more ($50g < e$) and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the approved said Model has been manufactured.

[F. No. WM-21(64)/2001]

P.A. KRISHNAMOORTHY, Director, Legal Metrology

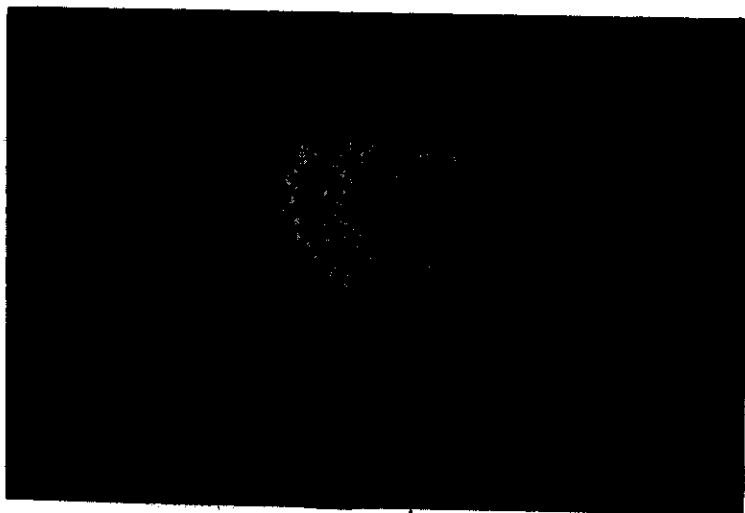
नई दिल्ली, 15 दिसम्बर, 2003

का. आ. 3421.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स ओजोन ओवरसीज लि. 3/46ए, पश्चिम पंजाबी बाग, नई दिल्ली-110026 द्वारा विनिर्मित सामान्य यथार्थता वर्ग (यथार्थता वर्ग IV) वाले "बी आर 9808" शृंखला के स्वतः सूचक, अस्वचालित, संदृश सूचन सहित तोलन उपकरण (व्यक्ति तोलन तुला प्रकार) के मॉडल का, जिसके ब्रांड का नाम "इक्वीनॉम्स" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/394 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है;

यह माडल एक अस्वचालित यांत्रिक तोलन उपकरण (व्यक्ति तोलन तुला) है जिसमें स्प्रिंग क्रियाविधि सम्मिलित है। इसकी अधिकतम क्षमता 120 कि.ग्रा. और न्यूनतम क्षमता 10 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 1 कि. ग्रा. है।

सीलबन्दी: स्टाम्पिंग प्लेट को सील करने के अतिरिक्त, कपटपूर्ण व्यवहार के लिए मशीन को खोलने से रोकने के लिए भी सीलबन्दी की जाएगी।



और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त माडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत डिजाइन के अनुसार और उसी सामग्री से विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 50 ग्रा. या उससे अधिक के 'ई' मान [50 ग्रा. (ई)] के लिए 100 से 1,000 तक की रेंज में सत्यापन मान, अंतराल (एन) की संख्या सहित 120 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और 'ई' मान 1×10^5 , 2×10^5 या 5×10^5 हैं, जो घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू. एम.-21(64)/2001]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

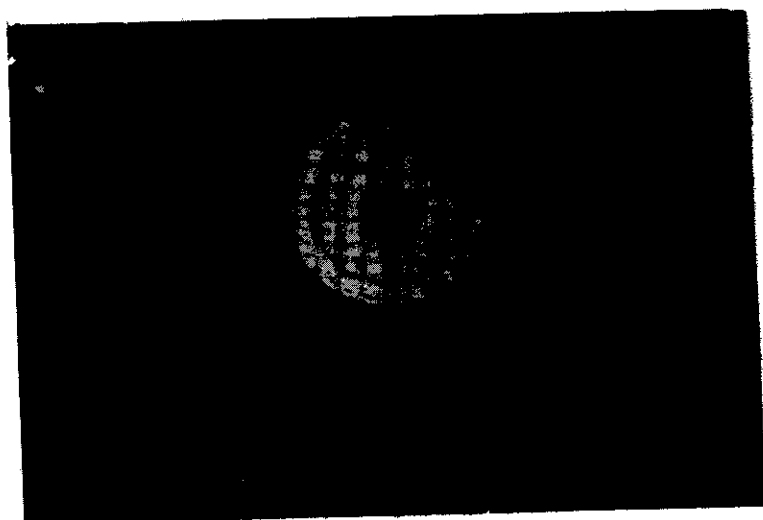
New Delhi, the 15th December, 2003

S.O. 3421.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of the self-indicating, non-automatic Mechanical (personal weighing scale type) weighing instrument of 'BR 9808' series with analogue indication of ordinary accuracy (Accuracy class-III) and with brand name "Equinox" (hereinafter referred to as the said model), manufactured by M/s. Ozone Overseas Ltd. 3/46 A, West Punjabi Bagh, New Delhi-110 026 and which is assigned the approval mark IND/09/2003/394;

The Model is a non-automatic Mechanical weighing Instrument (person weighing machine) incorporated with spring mechanism. Its maximum capacity is 120kg and the minimum capacity is 10kg. and value of verification scale interval is 1kg.

Sealing: In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of same series with maximum capacity upto 120kg with number of scale interval 'n' in the range of 100 to 1000 corresponding to 'e' value of 50g or more (50g, e) and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design, and with the same materials with which, the approved said Model has been manufactured.

[F. No. WM-21(64)/2001]

P.A. KRISHNAMOORTHY, Director, Legal Metrology

श्रम मंत्रालय

नई दिल्ली, 21 नवम्बर, 2003

का. आ. 3422.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोचीन रिफाइनरी लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में लेबर कोर्ट, एर्नाकुलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-2003 को प्राप्त हुआ था।

[सं० एल-30012/25/97-आई.आर.(सी-1)]

एस. एस. गुप्ता, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 21st November, 2003

S.O. 3422.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Cochin Refineries Ltd. and their workman, which was received by the Central Government on 20-11-2003.

[No. L-30012/25/97-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

**IN THE CENTRAL GOVERNMENT LABOUR
COURT, ERNAKULAM (IN THE LABOUR COURT,
ERANKULAM)**

Wednesday, the 27th day of August, 2003

PRESENT:

Smt. N. Thulasi Bai, B.A. LL. B.,
Presiding Officer

Industrial Dispute No. 18 of 1997 (Central)

BETWEEN: The General Manager, Cochin Refineries
Limited, Ambalamughal

AND

The workman of the above concern represented by the
Cochin Refineries Workers Association, Ambalamughal,
Cochin, Kerala

Representations:

M/s. Menon & Pai, : . . . For Management
Advocate,
Ernakulam

Sri, Agith Prakash, : . . . For Union
Advocate,
402, Imperial Building
Annex, Flower Junction,
T. D. Road, Kochi-35.

AWARD

This reference was made by Central Government as
per Order No.- L-30012/25/97-IR (C.I.) dated 3rd June, 1997.
The dispute is between the Management of M/s. Cochin

Refineries Ltd. and their workman Sri. E. D. Gokulan, K.
Sridharan and K. Balakrishna Pillai.

The dispute referred is:

“Whether the action of the management of M/s. Cochin Refineries Ltd. in imposing the punishment of withholding two annual increments with cumulative effect for certain alleged misconduct in respect of the workmen S/Shri. E.D. Gokulan, K. Sridharan and K. Balakrishnan Pillai is justified? If not, to what relief are these workmen entitled to?”

In the reference Sri K. Sasidharan and K. Balakrishnan Pillai are represented by the Cochin Refineries Employees Association and Sri. E.D. Gokulan is represented by the Cochin Refineries Workers Association and the management is represented by the General Manager (HRM), Cochin Refineries Limited.

2. On receipt of notices issued from this court both union and management appeared through counsel.

3. The second union representing Sri. K. Sasidharan and Sri. K. Balakrishnan Pillai filed a claim statement raising the following claims:—The alleged misconduct for imposed the punishment is that the workman slept while on duty on 19-8-1994 thereby committed misconduct as per standing order clause 29-38. The punishment was imposed by the Deputy General Manager (Manufacturing) after domestic enquiry. The enquiry proceedings were only an empty formality to cover up the preplanned and biased intention of the management to victimise the workers and to prevent them from trade union activities. Actually the workers have not slept during the working hours. The enquiry officer was a person who was being appointed in all the domestic enquiries ordered by the management against the workers for the last so many years thereby the enquiry officer was not inclined to arrive at any finding in favour of the workman. The findings of the enquiry officer were not based on evidence on record. The only eye witness to the alleged misconduct was Sri. M. J. Abraham, the Senior Manager. His evidence was legally inadmissible and unreliable due to contradictions. On going through the evidence of MW1 it is clear that his evidence was not sufficient to prove the alleged misconduct against the workers. The enquiry officer failed to consider his evidence adduced from the part of the workers. Basing on the findings of the enquiry officer the disciplinary authority had imposed punishment on the workers without considering the explanation given by the workers to the second show cause notice. The workers were awarded the penalty of withholding their annual increment with cumulative effect. The penalty is shockingly disproportionate to the gravity of the charges levelled against the workman. So the second union represented 2 workers pray for passing an award quashing the entire disciplinary proceedings and the punishment imposed.

4. In the written statement filed by the management following contentions are seen raised:—The workers involved in the reference are operators working in the utility section of the manufacturing department of the company. While working in the morning shift on 19-8-94 they were found sleeping in the co-boiler field control room in the utility section of the manufacturing department of the refinery. Sri. M.J. Abraham, Senior Manager, (Shift Administration) reported the matter to the management. The co-boiler field control room in the utility section is meant for dealing the work of co-boilers. The steam header pressure which is very critical safety refinery is controlled from the above boilers. Sleeping while on duty in potential hazardous industry like the petroleum refinery may lead to serious danger and it is a serious misconduct under clause No. 29-38 of the standing orders of Cochin Refineries Limited. So show cause notices were issued to the workman and they were placed under suspension from the date of notice. All the 3 workers offered their explanation which were not found satisfactory thereby they were charge sheeted and a domestic enquiry was conducted through Mr. Thomas Philip, an outsider. All the 3 employees were provided sufficient opportunities to participate in the enquiry. They were represented through co-workers and the witnesses examined from the side of the management were cross examined by the representative of the workman. Thereafter 6 witnesses were examined from the side of the delinquent workman in support of their defence. Thus the workman participated in the enquiry through out thereby the principles of natural justice has been complied with. There was no objection from the part of the workman against the enquiry officer and the conduct of the enquiry. On analysing the oral and documentary evidence adduced in the enquiry, the enquiry officer found the 3 employees guilty of the charges levelled against them. On receipt of enquiry report the management furnished copy to all the 3 workers and a second opportunity was given to show cause on the finding. Considering the explanation, findings of the enquiry officer and past record of the delinquent the management imposed the punishment of withholding 2 annual increments with cumulative effect. According to the management the enquiry conducted by the management is legal and valid and the findings of the enquiry officer are based on evidence on record. At the same time the management seeks permission of this court to adduce fresh evidence to prove the misconducts if the enquiry is found as vitiated, by this court. The management upholds the propriety of punishment imposed on the workman based on the findings in the enquiry report. So the management prays for passing an award upholding the enquiry and punishment and rejecting the claim of the unions.

5. First union who represents Sri. E.D. Gokulan filed a rejoinder traversing the contentions raised in the written statement filed by the management. It is explained in the rejoinder that the action of the management is based on the report of MW1 which was not produced in the enquiry.

So also there was no communication in the show cause notice or charge sheet that the proceedings were initiated on the basis of the report of MW1. MW1 and MW2 who are the senior Managers of shift Administration and shift in charge had not reported the alleged incident in their daily report, which was admitted by them in the enquiry. The enquiry officer has not followed the principles of natural justice in the matter of enquiry and the report is not based on evidence on report. The enquiry officer did not consider the material evidence tendered by the defence witnesses, but fully relied on the deposition of MW1, the management witness. According to the first union also the enquiry is not valid and proper as natural justice has been violated and the findings of enquiry officer are not based on evidence in the enquiry. It is also alleged that the punishment imposed is highly unjustifiable thereby the first union also prays for passing an award setting aside the enquiry report and withdrawal of the punishment imposed.

6. Since the punishment imposed on the workers was pursuant to a domestic enquiry, the enquiry officer was examined as MW1 and Ext. M1 enquiry file was marked.

7. Thus the points arise for determination are :

1. Whether the enquiry conducted through MW1 is valid and proper?
2. Whether the findings of the enquiry officer are based on evidence?
3. Whether chance has to be given to the management to adduce fresh evidence?
4. The relief, if any, due to the workman?

8. Points 1 and 2:—While considering the validity and propriety of the enquiry conducted through MW1, it cannot be disputed that sufficient opportunity was given to the workman to participate in the enquiry through co-workers. It is true that the preliminary objections was raised by the workman against the joint enquiry conducted against all the 3 workmen which was over ruled by the enquiry officer stating that since the incident alleged was occurred in the same place at the same time. There is nothing objectional in conducting a joint enquiry. Since the incident which gave raise for the enquiry was alleged to be occurred on the same day at the sametime in the very same spot and the witnesses to be examined from both sides and the documents to be relied on are identical thereby no prejudice will be caused to the workman by the conduct of a joint enquiry. So the joint enquiry conducted against the workman has not affected the propriety of the enquiry. The workmen were represented by two co-workers in the enquiry through whom the workmen participated in the enquiry through out. The witnesses examined from the management's sides were cross examined by the co-workers appeared for the workmen and 6 witnesses were examined from the workmen's side. It is evident from the deposition of MW1 available in Ext. M1 enquiry file that he

was elaborately cross-examined by the co-workers on behalf of the workmen. The copy of documents produced from the management's side were served on the workmen and the workmen also produced and marked Exts. D1 to D9. There was no allegation of bias against the enquiry officer at the time of conduct of enquiry. On going through the enquiry proceedings available in Ext. M1 file it can be gathered that the enquiry officer had followed all the legal formalities in the matter of conduct of enquiry thereby the principles of natural justice has been complied with. So it can be found that the enquiry conducted against the workmen through MW 1 is valid and proper.

9. The main contention from the part of the workmen regarding the enquiry report is that the report of enquiry is not based on evidence on record. So many contradictions in the deposition of MW1 the Senior Manager (Shift Administration) are pointed out by the second union representing Sri. Sridharan and Sri K. Balakrishna Pillai in the claim statement and the first union representing Sri. Gokulan has pointed out in the rejoinder that the reliance made by the enquiry officer on the deposition of MW1 to arrive that the workmen are guilty to the misconduct alleged is against the evidence on record. While considering the above allegation in respect of the evidence of MW1 in the enquiry and reliance made by the enquiry officer on the same to find the workmen guilty of the misconduct the first aspect to be referred is that there was no allegation for the workmen against the Senior Manager (Shift Administration) in the explanations to the show-cause notices that the Senior Manager has any personnel grudge against the present workmen so as to implicate them in disciplinary proceedings by raising false allegation. But the defence of the workmen in the explanation to the show-cause notices was one of total denial. The allegation against the workmen is that they were sleeping while on duty in the M. Shift on 19-8-94 in the U.B.—control room. The allegation is that MW1 the Senior Manager, Shift Administration himself personally found the 3 workmen sleeping in the U.D.-6 control room during M. shift which was informed to Sri. P.S. Kamath, shift in charge and General Manager (operations). The fact that the Senior Manager who was examined as MW1 in the enquiry met the three workman in the co-boiler UB-6 control room on 19-9-94 at about 3 A.M. is not disputed. Sri. B. Reghu Nathan Nair, a co-worker of the workmen was also present in the spot at that time is admitted. The definite case of the workmen about the allegation is that actually they were not sleeping but they were sitting and taking in the room. The fact that all the above 4 workers were on duty in the M. shift on 19-8-94 which had commenced at 11 O' Clock night on 19-8-94 and ends at 7 A.M. on 20-9-94 in the boiler section is admitted. Sri. M.J. Abraham, the Senior Manager (Shift Administration) as MW1 has deposed in the enquiry that he found all the 3 workmen sleeping in the U.B.-6 control room and Sri. Reghunathan waiting in front of the room in a chair and on seeing him Sri. Regunathan awakened the

workmen by making sound. On going through the deposition of MW1 available in the enquiry file it is evident that he was elaborately cross-examined by the co-workers representing the workmen to test his veracity and attempted to discredit his version. But through the co-workers could bring out some discrepancies during the course of his prolonged cross-examination his firm version that he found the workmen sleeping during the course of their duty could not be discredited. There was no allegation of personnel grudge or other animosity for MW1 towards the workmen. The attempt of the co-workers during the course of enquiry was to bring out that the action were initiated against the workmen as part of reduction of manpower in the section in which the workmen were employed cannot be found as proper since the punishment imposed on the workers was only barring of increments. Cross-examination of MW1 appears to be continued from pages 8 to 62 of Ext. M1 enquiry file itself shows the gravity of cross-examination made by the co-worker on behalf of the workmen inspite of which they could not succeed in challenging the veracity of the deposition of MW1. The minor discrepancies pointed out by the unions' counsel are not sufficient to find the evidence of MW1 as untrustworthy. In the enquiry report the enquiry officer has given specific reasonings for relying on the evidence of MW1 preference to the evidence of DWs 1 to 6 and nothing on record to interfere with that finding. It is settled law that the standard of proof required in a disciplinary enquiry is not the same as the one involved in establishing an offence in a criminal court and there is no question of any benefit of doubt being given to the delinquent employee if there is acceptable evidence in support of an imputation of misconduct. In the present case there is no dispute about the fact that sleeping while on duty is a misconduct as per the certified standing orders of the management establishment.

10. Regarding Ex. M1 enquiry file produced before court it was pointed out by the unions counsel that the copy of certified standing orders which was marked as Ext. M1 in the enquiry does not find a place in Ext. M1 enquiry file and the reports included in pages 194 and 195 of Ext. M1 file were not produced in the enquiry, inspite of the demand made by the workmen for the production of report alleged to be given by MW1, the Senior Manager to the General Manager as claimed thereby Ext. MW1 enquiry file produced before court is not one submitted by MW1 to the management. It is true that the report included in pages 194 and 195 of Ext. M1 were not produced in the enquiry and the copy of certified standing order which was marked as Ext. M1 in the enquiry is not seen in Ext. M1 file has been admitted by the enquiry officer as MW 1 before court. Even without the reports included in pages 194 and 195 of Ext. M1, the enquiry officer found that the misconduct alleged against the workmen is proved through the oral evidence of MW1 in the enquiry. So also it is admitted by DWs 1 to 6 that sleeping while on duty is a misconduct as per the certified standing orders of the management

establishment. So the non-inclusion of the copy of the certified standing orders and addition of the reports in pages 194 and 195 in Ext. M1 file are not matters which affect the veracity of Ext. M1 enquiry file produced before court. Thus on going through the evidence available in Ex. M1 file and the findings of the enquiry officer in the enquiry report it can be found that the findings of the enquiry officer are based on evidence on record. Thus under these points it can be held that the enquiry conducted through MW1 is valid and proper and the findings of the enquiry officer are based on evidence on record. Points are answered accordingly.

10. **Point No. 3 and 3 :** As the punishment imposed on the workmen are with holding of annual increments with cumulative effect there is no scope for any interference by this court in the matter of punishment by invoking section 11A of the Industrial Disputes Act thereby the workmen are not entitled to get any relief as per the reference. Points are answered accordingly.

In the result, an award is passed finding that the action of the Management of M/s. Cochin Refineries Limited in composing the punishment of with holding 2 annual increments with cumulative effect in respect of the workmen Sri. E. D. Gokulan Sri. K. Sridharan and Sri. K. Balakrishnan Pillai is justified and the workmen are not entitled to get any relief as per the reference.

This award will take effect one month after its publication in the Official Gazette.

Dictated to the Confidential Assistant, transcribed and typed out by her, correct by me and passed this the 27th day of August, 2003.

N. THULASI BAI, Presiding Officer.

Emakulam.

APPENDIX

Witness Examined in the side of the Management :—

MW1—Sri. Thomas Plulip.

Witness examined on the side of the workman :—Nil

Exhibits marked on the side of the Management :—

Ext. M1—Enquiry file.

Exhibits marked on the side of the Workman :—Nil

नई दिल्ली, 21 नवम्बर, 2003

का. आ. 3423.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा०को०को० लि० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनबाद-2 के पंचाट (संदर्भ संख्या 9/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-2003 को प्राप्त हुआ था।

[सं० एल-20012/242/2002-आई.आर.(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 21st November, 2003

S.O. 3423.—In pursuance of Section 17 of the Industrial Disputes, Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 9/2003) of the Central Government Industrial Tribunal/Labour Court II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 20-11-2003.

[No. L-20012/242/2002-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD PRESENT

Shri B. Biswas,

Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947.

REFERENCE NO. 9 OF 2003

PARTIES :

Employers in relation to the Management of Sijua Area of M/s. B.C.C.L. and their workmen.

APPEARANCES :

On behalf of the workman : Shri U.N. Lall,
Advocate.

On behalf of the employers : Shri D.K. Verma,
Advocate.

State : Jharkhand : Industry : Coal.

Dated, Dhanbad, the 27th October, 2003.

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/242/2002-IR(C-I), dated, the 12th November, 2002.

SCHEDULE

“Whether the action of the management of Nichitpur Colliery of M/s. BCCL in dismissing Sri Tapeswar Singh Pump Operator from the services of the company w.e.f. 21-6-2001 is justified? If not, to what relief is the concerned workman entitled.”

2. In course of hearing of the instant dispute both the parties appeared and filed a petition of settlement under their signature. I heard on the said petition of settlement and I find that the terms contained therein are fair, proper and in accordance with the principles of natural justice. Accordingly I accept the said settlement and pass an Award in terms thereof which forms part of the Award as Annexure.

B. BISWAS, Presiding Officer.

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL
GOVT. INDUSTRIAL TRIBUNAL NO. 2 DHANBAD.

Ref./ Case No. 9 of 2003

Order No. L-200/2/242/2002-DR (C-I)

Dt. 12-4-2002.

Parties : Employers relation to the Management of
Mudidih Colliery under Sijua Area of M/s.
BCCL.

And

Their workman

Petition for settlement

The Jt. petition of settlement on behalf of employer/
Management and their workman namely Tapeswar Singh
respectfully sweth :—

1. That the Government of India, Ministry of Labour
vide their adjudication No. L-200/2/242/2002-IR (C-I) dated
12-11-2002 has been pleased to refer this dispute to the
Hon'ble Tribunal for adjudication on the issue contained
in the following schedule :—

"Whether the action of the management of Nichitpur
Colliery of M/s. BCCL in dismissing Sri Tapeswar Singh,
Pump Operator from the services of the Company w.e.f.
21-6-2001 is justified? If not, to what relief is the concerned
workmen entitled?"

2. That during the pendency of the dispute before
the Hon'ble Tribunal, the case was discussed out side the
court and settled amicably with the Rastriya Colliery
Mazdoor Sangh.

3. That Sri Tapeswar Singh, Ex. Pump Operator,
P. No. 02288256 was a permanent employee of Nichitpur
Colliery. He was transferred to Mudidih Colliery
alongwith three others vide office order No. GM/SA/
PD/F. 10A/266/2001 dated 15-3-2001. He was released
vide office order No. N/PD//255/2001 dated 17/19-3-
2001. In the meantime on the report of an incident
which took place on 18-6-2001, the workman was
discharged from services of the Company under clause
28 of the certified standing orders vide letter No. 1605
dated 21-6-96.

The Rastriya Colliery Mazdoor Sangh had taken up
the matter before the Management for his re-instatement in
service. The discussion were held on several dates and
finally the matter resolved on the following terms &
condition.

TERMS OF SETTLEMENT

1. That Sri Tapeswar Singh, Ex. Pump Operator
will be re-instated in the same pay and scale of pay which
he was drawing at the time of his dismissal.

2. That it is assured by the workman that there
would not be any incident of any misconduct on his part in

future also.

3. That no wages would be payable to him for the
period of idleness w.e.f. 21-6-2001 till resumption of his
duty. However, the said period would be treated as dis-
non for the purpose of payment of gratuity only and no
other consequential benefit.

4. That the employee concerned shall discharge
his duties with sincerity, devotion and loyalty for the best
interest of the company.

5. That the employee concerned shall abide by
the Coal Mines Pension scheme 1998 and contribute
thereof as per policy/applicability.

6. That the instant settlement fully and finally
resolve the dispute and the workman concerned shall not
raise any dispute in the above matter at any forum and at
any stage in future.

7. That it has been agreed that the seven copies of
the settlement will be filed before the Hon'ble Tribunal and
the Hon'ble Presiding Officer shall be prayed for passing
an award in terms of settlement.

That in view of the above settlement, the Hon'ble
Tribunal may graciously be pleased to pass an award
accordingly.

Signature of the parties

Representing management Presenting workman

1. Chief General Manager

1. D.P. Lall

Sijua Area

Working President, RCMS

2. Dy. C.P.M.

2. C.M. Sharma

Sijua Area

Area President, RCMS

3. P.M.(I.R.)

Tapeswar Singh

Sijua Area

Ex Pump Operator

Witnesses :—

(1) विजय शर्मा

(2) रामप्रीत प्रसाद

नई दिल्ली, 21 नवम्बर, 2003

का. आ. 3424.—औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार
ओ०एन०जी०सी० लि० के प्रबंधन के संबद्ध नियोजकों और उनके
कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय
सरकार औद्योगिक अधिकरण नई दिल्ली के पंचाट (संदर्भ संख्या
187/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को
20-11-2003 को प्राप्त हुआ था।

[सं० एल-30012/84/97-आई.आर.(सी-1)]

एस. एस. गुप्ता, अवसर सचिव

New Delhi, the 21st November, 2003

S.O. 3424.—In pursuance of Section 17 of the
Industrial Disputes, Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. No. 187/98) of the Central Government Industrial Tribunal/Labour Court New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ONGC Ltd. and their workman, which was received by the Central Government on 20-11-2003.

[No. L-30012/84/97-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, NEW DELHI

PRESIDING OFFICER : SHRI BADRI NIWAS PANDEY

I.D. No. 187/98

Shri Ramesh Kumar S/o Mohan Lal, Workman
C/o Shri B.D. Tyagi, 16-A, Rajpur Road,
Dehradun.

Versus

The Managing Director, Management
Oil & Natural Gas Commission Ltd.,
Tel Bhawan, Dehradun.

AWARD

The Central Govt. in the Ministry of Labour vide its Order No. L-30012/84/97-IR(C-1) dated 27-8-1998 has referred the following industrial dispute to this tribunal for adjudication :

"Whether the action of the management of ONGC Ltd. in terminating the services of Shri Ramesh Kumar w.e.f. 1-1-94 is just, fair and legal ? If not, what relief he is entitled to ?"

2. The case is fixed for issues/hearing. None is present on either side. On persual of the file it transpires that the workman has not appearing for the last several dates after filing claim statement. It shows deliberate absence of the workman.

3. Hence 'No Dispute Award' is given.

BADRI NIWAS PANDEY, Presiding Officer

नई दिल्ली, 24 नवम्बर, 2003

का. आ. 3425.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 732/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[सं० एल-12012/186/99-आई.आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 24th November, 2003

S.O. 3425.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award Ref. 732/2001 of the Central Govt. Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Indian Bank and their workmen, received by the Central Government on 21-11-2003.

[No. L-12012/186/1999-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 16th October, 2003

PRESENT:

Shri. K. Jayaraman,
Presiding Officer

Industrial Dispute No. 732 /2001

(Tamil Nadu Principal Labour Court CGID. No. 382/99)

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Indian Bank and their workman)

BETWEEN:

The General Secretary, I Party/Claimant
Indian Bank Employees Union
AND

The General Manager II Party/Management
Indian Bank, Z.O., Chennai.

APPEARANCE:

For the Claimant : Mr. K. J. Annachalam,
Authorised Representative

For the Management : M/s. Aiyar & Dolia
Sri N. Krishnakumar, Advocates

AWARD

The Central Government, Ministry of Labour vide Notification No. L-12012/186/99/IR(B-II) dated 30-11-1999 has earlier referred this industrial dispute to Tamil Nadu Principal Labour Court, Chennai for adjudication. The Tamil Nadu Principal Labour Court has taken the same on its file as I.D. 382/99 and after the constitution of this Central Government Industrial-cum-Labour Court, the said industrial dispute was transferred to this tribunal and on receipt of the records, it was numbered as I.D. No. 732/2001. The dispute referred by the Government in the schedule is hereunder :—

"Whether the action of the management on terminating/discontinuing the service of Sri K. Partheeban is legal and justified? If not, what relief is the disputant concerned entitled to?"

2. After numbering the industrial dispute, this Court has issued notices to both sides and both the parties entered appearance through their authorised representative and advocate respectively and they have filed their respective statements. On the side of the I Party, the concerned workman was examined as WW1 and six documents were marked as Ex. W1 to W6 and on the side of the II Party/Management no one was examined as a witness and five documents were marked as Ex. M1 to M5.

3. The allegations made in the Claim Statement of the Petitioner Union are as follows :—

The Petitioner espousing the cause of the concerned workman in this industrial dispute Sri K. Partheeban, who was initially engaged as a temporary sub-staff on 27-04-93 at Tirupporur branch of the Respondent/Bank. He was continuously engaged as such till the date of his termination on 26-5-1994 and he worked for a total number of 246 days. Further, the concerned workman Sri K. Partheeban has also registered his name with the Employment Exchange at Kanjeeपुरam. Therefore, the concerned workman's claim is well within the purview of subsisting legally binding settlement arrived at under the provisions of Industrial Disputes Act, 1947 in the matter of regularisation of temporary employees into permanent sub-staff cadre. Therefore, the termination of service of the concerned employee amounts to retrenchment and non-compliance of Section 25F of the Industrial Disputes Act, 1947, and therefore, it vitiates the order of termination. Therefore, the termination of the services of Sri K. Partheeban without notice is in violation of para 522(4) of Sastri Award. Hence, the Petitioner Union prays that an Award may be passed in favour of the concerned employee Sri K. Partheeban.

4. In answer to this statement, the Respondent/Management in their Counter Statement contended that the engagement of the concerned employee was only on day to day basis/casual basis and that too without the permission and approval of the competent authority and against the existing selection procedure/guidelines. The concerned employee was never kept in the panel of temporary sub-staff. The procedure to be followed for empanelment of temporary sub-staff is— (i) that he should be sponsored through Employment Exchange irrespective of the nature and duration of engagement; (ii) he should possess requisite educational qualification; (iii) he should be minimum of 18 years and not exceeding 23 years of age; (iv) he should be selected by an interview committee at Regional level; and (v) that selection should be approved by Zonal level. It is not true to say that the concerned employee worked more than 246 days. Even assuming that he has worked, it has no relevance and the same will not confer any right to the employee. Further, his registration with the Employment Exchange at his instance will also not confer any right. It is false to allege that Section 25F attracted in this case. Further, Sastri Award has no

application in this case. Hence, the Respondent prays that the claim is to be dismissed with costs.

5. Again, the Petitioner Union in the rejoinder statement has contended as follows :—

The Respondent/Management after having engaged the services of the concerned workman against the permanent vacancy, cannot now contend that his engagement was not approved by the competent authority. Even after various circulars issued by the Govt. the management entered into a settlement with the Union with respect to temporary sub-staff empanelment, thereby agreed to waive the sponsorship through Employment Exchange. Therefore, the Respondent is estopped from contending that the concerned workman was not sponsored through Employment Exchange. Therefore, for all these reasons, the Petitioner Union contended that the action of the Respondent/Bank in disengaging the concerned employee is clearly illegal and pray that this claim may be allowed.

6. In these circumstances, the points for determination in this case are as follows :—

- (i) "Whether the action of the management of Indian Bank in terminating/discontinuing the services of Sri K. Partheeban is legal and justified?"
- (ii) "To what relief the concerned workman is entitled?"

7. Point No. 1:—

In this case, the contention of the Petitioner Union, which has espoused the cause of the concerned workman Sri K. Partheeban is that after having engaged the services of Sri K. Partheeban as sub-staff from 27-04-1993, the Respondent/Bank cannot now contend that his engagement was not approved by the competent authority, not legal and so on. Further, it is the contention of the Petitioner Union that Sri K. Partheeban was engaged continuously from 27-4-1993 and he has worked in the Respondent/Bank for more than 246 days. He was paid wages for that period and therefore, his services were regular in nature and not to meet the exigencies of the bank of any particular period as alleged by the Respondent/Bank. To substantiate their claim, on behalf of the Petitioner Union six documents namely Ex. W1 to W6 were marked and the concerned employee was examined as WW1. Ex. W6 is the particulars of temporary engagement of Sri K. Partheeban in the Respondent/Bank branch. Ex. W2 is the transfer certificate issued by the Govt. High School at Govindavadi. Ex. W1 is the xerox copy of the identity/registration card given by the Employment Exchange. Ex. W3 and W4 are the letters sent by the concerned employee and the Petitioner Union to Assistant Labour Commissioner (Central), Chennai. Ex. W5 is the particulars of the concerned workman Sri K. Partheeban. It is contended on behalf of the Petitioner that the concerned employee was examined as WW1 and he has produced documents Ex. W1 to W6 and as against his oral and documentary evidence, the Respondent/Bank has not let in any contra evidence except

the circulars issued by the Central Govt. and also the circulars issued by the Zonal Office to Respondent/Bank branches. It is the further contention of the Petitioner that the Respondent/Bank in all the cases contended that the temporary employee was not sponsored by the Employment Exchange and he is trying to get into the bank at back door entry and this should not be allowed to contend because the very engagement of the concerned temporary staff was by the Respondent/Bank officers' and they after utilising the services of the concerned workman cannot turn around and say that his engagement is not sponsored by Employment Exchange or not approved by the concerned authorities. Further, on behalf of the Petitioner, it was contended that item 10 of the Schedule 5 of the Industrial Disputes Act, 1947 categorically states that to employ workmen as casuals for years with an object to depriving them as status of permanent workmen is an unfair labour practice and therefore, the Respondent/Bank in this case committed an unfair labour practice as enshrined in the Schedule 5 of the Industrial Disputes Act, 1947 and therefore, their contention should not be allowed.

8. On behalf of the Respondent/Management, it is contended that it is false to alleged that Sri K. Partheeban was engaged as temporary sub-staff from 27-04-1993 at Tiruporur branch. On the other hand, his engagement was on needs and intermittently on casual basis. Further, his engagement was only on day to day/casual basis and that too by the Branch Manager of Tiruporur branch without any permission and approval of the competent authority. It is the further contention of the Respondent that the Respondent/Bank was maintaining a panel of temporary employees list and whenever any leave vacancy arises, persons from the temporary panel was engaged, but the said Sri K. Partheeban was never in the said panel and therefore, he cannot claim any right for permanent appointment. On behalf of the Respondent, it is contended that the Central Govt. under whose control the Respondent/Bank is functioning has issued circulars that no person should be engaged irrespective of the capacity either permanent or temporary without being duly sponsored by Employment Exchange and to establish this fact, they have filed five documents which were marked as Ex. M1 to M5. Ex. M1 and M3 are Government of India instructions issued on 30-09-78 and 16-08-90 respectively. Ex. M5 is the RBI instructions issued on 26-06-1996. It is the further contention of the Respondent that a settlement was entered into between the Petitioner Union and the management of Respondent/Bank on 6-7-92 with regard to temporary/casual employees engaged in the leave vacancies and the copy of the said settlement was marked as Ex. M4 and that settlement pertains to those such casual employees employed during the period between 1-1-82 and 31-12-89 as one time measure and for a specific purpose and specific period of time. In this case, the concerned employee namely Sri K. Partheeban was never utilised by the Respondent/Bank during the said period and therefore, Sri K. Partheeban is not eligible to be included in the empanelment of the temporary employee and they further contended that initial

appointment of Sri K. Partheeban itself was unauthorised without permission of the concerned authorities and therefore, his temporary appointment is by back door entrance and therefore, he cannot be made permanent. For this, they relied on 1999 II LLJ 1173 in the case of CALCUTTA TRAMWAYS COMPANY (1978) LTD. & ORS. Vs. RAMESH AND 17 OTHERS and another Authority reported in 2003 II LLJ 948 UNION OF INDIA Vs. LEKH RAJ AND OTHERS, wherein, it was observed that "appointment to a permanent service must be made in terms of recruitment rules. For that purpose, there must existence of the vacancy. A person appointed through back door i.e. not in conformity with the rules could not claim permanency in service. if the initial appointment was illegal on account of not following the procedure for appointment, the incumbent obtaining appointment without following the procedure cannot claim as a matter of right to be regularised." Further, the Respondent placed reliance in the case reported in 1997 III LLJ 331 UNION OF INDIA Vs. BISHAMBER DUTT, wherein the Hon'ble Supreme Court has held that "unless a person is appointment on regular basis according to rules after consideration of the claims on merits, there is no question of regularisation of his service" Further, they have relied on the judgement of Hon'ble Supreme Court reported in AIR 1994 SC 1638 in the case of MADHYAMIK SIKSHA PARISHAD U.P. Vs. ANIL KUMAR MISHRA & OTHERS as reported in AIR 1994 SC 1638, wherein the Supreme Court has held that "..... there were, no sanctioned posts in existence to which they could be said to have been appointed. The assignment was on ad-hoc one which anticipatedly spent itself out. It is difficult to envisage for them the status of workmen on the analogy of provisions of Industrial Disputes Act, 1947 importing the incidents of completing of 240 days work the completion of 240 days work does not under that law import the right to regularisation."

Therefore, it is argued on behalf of the Respondent that to regularise a temporary staff, it should be only according to rules and regulations.

9. But, on the other hand, on behalf of the Petitioner, it is contended that it is not correct to say that Sri K. Partheeban was engaged intermittently and for need based situations, but he was engaged continuously in Tiruporur branch of the Respondent/Bank and further, the Respondent/Bank having utilised the services of Sri K. Partheeban for a long and continuous period they are now estopped from contending that Sri K. Partheeban was not sponsored by the Employment Exchange or that he did not undergo the selection process as contemplated under the rules and regulations. It is the further contention of the Petitioner Union that even after the so called circulars of the Govt., the bank has entered into settlement with the workmen as per the Industrial Disputes Act under Section 12(3) for the engagement of various sub-staff in the respondent/bank. Therefore, it is futile to contend that no temporary sub-staff can be regularised, who were not sponsored by the Employment Exchange.

10. But, I find there is no substance in the contention of the Petitioner Union because even in Ex. M4, it is mentioned that it was mutually agreed by the Union and also the Management to consider those persons, who were engaged without being sponsored by Employment Exchange worked during the period of 1-1-82 to 31-12-89 as a one time measure and therefore, in pursuant to the Govt. guidelines to Public Sector Banks, the Respondent/Bank is not entitled to appoint a person, who worked as casual on regular basis. Further, the Government of India through its circulars clearly stated that no person should be appointed to any post in a nationalised bank not being sponsored through Employment Exchange. In this case, the Petitioner Union has not shown that such temporary employment was made by any settlement or such temporary employees are entitled to be regularised by mutual agreement. Under such circumstances, it cannot be contended that the temporary appointment of Sri K. Partheeban can be regularised by the Respondent/Management. Further, the decisions relied on by the Respondent clearly stated that such temporary employment are illegal and they cannot be regularised as they requested. Therefore, the concerned employee namely Sri K. Partheeban, who worked as a casual worker, has no right to claim permanent employment, though he worked for a long period intermittently. In view of the above, I find this point against the Petitioner.

11. The next point to be decided in this case is to what relief the concerned workman is entitled?

In view of my foregoing findings, the action of the management of Indian Bank in terminating/discontinuing the services of the concerned workman Sri K. Partheeban is legal. Hence, I find the concerned employee Sri K. Partheeban is not entitled to any relief. Ordered accordingly. No Costs.

12. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 16th October, 2003.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:-

For the I Party/Claimant : WW1 Sri K. Partheeban

For the II Party/Management : None

Documents Marked:—

For the I Party/Claimant:-

| Ex.No. | Date | Description |
|--------|---------|---|
| W1 | Nil | Xerox copy of the Employment Exchange registration Card of the concerned workman |
| W2 | Nil | Xerox copy of the transfer certificate of the concerned workman |
| W3 | 20-8-98 | Xerox copy of the letter from the concerned workman to Assistant Labour Commissioner (Central) raising Industrial dispute |

W4 04-1-99 Xerox copy of the reply filed by the Union before the Assistant Labour Commissioner (Central)

W5 Nil Xerox copy of the particulars pertaining to the concerned Workman submitted to the bank.

W6 Nil Statement of temporary engagement of Petitioner.

For the II Party/Management

Ex. No. Date Description

M1 30-9-78 Xerox copy of the letter from Ministry of Finance to All the Heads of Banks and financial institutions regarding Recruitment of sub staff in public sector banks.

M2 04-3-83 Xerox copy of the circular issued by Personnel Deptt. To all branches of Indian Bank regarding engagement of persons during leave vacancies of substaff.

M3 16-8-90 Xerox copy of the letter from Ministry of Finance to All the Chief Executives of Banks regarding Recruitment and absorption of temporary sub-staff in public sector banks.

M4 6-7-92 Xerox copy of the memorandum of settlement under section 12(3) entered into between the Respondent/Management and Petitioner Union regarding persons engaged in leave vacancies of sub-staff.

M5 26-6-96 Xerox copy of the letter issued by Reserve Bank of India to the Chairman, Indian Bank regarding Achievement of capital adequacy ratio of 8 percent.

नई दिल्ली, 24 नवम्बर, 2003

का. आ. 3426.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयर पोर्ट आथोरिटी आफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 15 से 22, 572, 588, 589, 599, 609, 610, 613—618, 742, 747/2001, 5, 7, 17 से 22/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[सं० एल-11012/24 से 29/1999-आई.आर.(एम)]

[सं० एल-11012/2, 10, 9, 7, 51, 52/2001 आई.आर.(एम)]

[सं० एल-11012/26 से 29/2001-आई.आर.(एम)]

[सं० एल-11012/33, 34, 35/2001-आई.आर.(एम)]

[सं० एल-11012/44, 45, 48/2001-आई.आर.(एम)]

[सं० एल-11012/59 से 63/2001-आई.आर.(एम)]

[सं० एल-11012/64/2001-आई.आर.(एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 24th November, 2003

S.O. 3426.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. Nos. 15 to 22, 572, 588, 589, 599, 609, 610, 613, 618, 742, 747/2001, 5, 7, 17 to 22/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workman, which was received by the Central Government on 21-11-2003.

[No. L-11012/24 to 29/99-IR(M)
L-11012/2, 10, 9, 7, 51, 52/2001-IR(M)
L-11012/26 to 29/2001-IR(M)
L-11012/33, 34, 35/2001-IR(M)
L-11012/44, 45, 48/2001-IR(M)
L-11012/59 to 63/2001-IR(M)
L-11012/64/2001-IR(M)]
B. M. DAVID, Under Secretary.

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI**

Monday, the 29th September, 20003

Present : K. JAYARAMAN,
Presiding Officer

[In the matter of the dispute for adiudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the workmen and the Management of Airport Authority of India (IAD) Chennai Airport]

| S. No. | I.D.No. | TNID No. | Reference No & Date | Name of the I Party S/Shri | Name of the II Party | Appearance For Workman | Appearance for Respondent |
|--------|---------|----------|---------------------------------------|----------------------------|---|---|-------------------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 1. | 15/2001 | 14/2000 | L-11012/24/99/IR(M) Dt. 24-01-2000 | Y. Swamivelu | Airport Authority of India(IAD), Chennai Airport | M/s. Lawrence & S. Sampath Kumar, Advncates | Mr- V.S.R. Hanu Babu Koka, Advocate |
| 2. | 16/2001 | 16/2000 | L-11012/25/99/IR(M) Dt. 24-01-2000 | V.K.Rajendran | Airport Authority of India(IAD), Chennai Airport | -do- | -do- |
| 3. | 17/2001 | 12/2000 | L-11012/26/99/IR(M) Dt. 24-01-2000 | S.Vijayan | Airport Authority of India(IAD), Chennai Airport | -do- | -do- |
| 4. | 18/2001 | 17/2000 | L-11012/27/99/IR(M) Dt. 24-01-2000 | M.Suresh | Airport Authority of India(IAD), Chennai Airport | -do- | -do- |
| 5. | 19/2001 | 15/2000 | L-11012/28/99/IR(M) Dt. 24-01-2000 | G.Venkateswarulu | Airport Authority of India(IAD), Chennai Airport | -do- | -do- |
| 6. | 20/2001 | 13/2000 | L-11012/29/99/IR(M) Dt. 24-01-2000 | A. Ravi | Airport Authority of India (IAD), Chennai Airport | - do - | -do- |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-----|----------|---|--|----------------------|---|---|---|
| 7. | 572/2001 | — | L-11012/2/2001/IR (M) Dt.30-03-2001 | S.Chandra Sekaran | Airport Authority of India (IAD), Chennai Airport | M/s. Lawrence & S. Sampath Kumar, Advocate | Mr. V.S.R. Hanubabu Koka, Advocate |
| 8. | 588/2001 | — | L-11012/10/2001/IR (M) Dt.08-06-2001 | V.Subbash | Airport Director, Airport Authority of India (IAD), Chennai Airport | -do- | -do- |
| 9. | 589/2001 | — | L-11012/9/2001/IR (M) Dt.08-06-2001 | N.Murugan | Airport Director, Airport Authority of India (IAD), Chennai Airport | -do- | -do- |
| 10. | 599/2001 | — | L-11012/7/2001/IR (M) Dt.03-08-2001 | G.Gnana Prakasam | Airport Director, Airport Authority of India (IAD), Chennai Airport | -do- | -do- |
| 11. | 609/2001 | — | L-11012/51/2001/IR (M) Dt.23-08-2001 | P. Raja | Airport Director, Airport Authority of India(IAD), Chennai Airport | -do- | -do- |
| 12. | 610/2001 | — | L-11012/52/2001/IR (M) Dt.23-08-2001 | N. Ravikumar | Airport Director, Airport Authority of India (IAD), Chennai Airport | -do- | -do- |
| 13. | 613/2001 | — | L-11012/26/2001/IR (M) Dt.23-08-2001 | G. Selvaraj | Airport Director, Airport Authority of India (IAD), Chennai Airport | -do- | -do- |
| 14. | 614/2001 | — | L-11012/27/2001/IR (M) Dt.23-08-2001 | Smt. Rukumani | Airport Director, Airport Authority of India (IAD), Chennai Airport | -do- | -do- |
| 15. | 615/2001 | — | L-11012/28/2001/IR (M) Dt.23-08-2001 | Smt. K. Shanthi | Airport Director, Airport Authority of India (IAD), Chennai Airport | -do- | -do- |
| 16. | 616/2001 | — | L-11012/29/2001/IR (M) Dt. 23-08-2001 | Smt. A. Arulmary | Airport Director, Airport Authority of India (IAD), Chennai Airport | -do- | -do- |
| 17. | 617/2001 | — | L-11012/33/2001/IR (M) Dt. 23-08-2001 | Smt. Kadherbee | Airport Director, Airport Authority of India (IAD), Chennai Airport | -do- | -do- |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|-----|----------|---|--|----------------|--|---|--|
| 18. | 618/2001 | — | L-11012/35/2001/IR (M) Dt. 23-08-2001 | Ch. Malyadri | Airport Director, Airport Authority of India (IAD), Chennai Airport | -do- | -do- |
| 19. | 742/2001 | — | L-11012/34/2001/IR (M) Dt. 31-10-2001 | K. Rajendran | Airport Director, Airport Authority of India (IAD), Chennai Airport | -do- | -do- |
| 20. | 747/2001 | — | L-11012/45/2001/IR (M) Dt. 20.12.2001 | Ms. Premkumar | Airport Director, Airport Authority of India (IAD), Chennai Airport | -do- | A. J. Jawad, R. J. Kannan & V. Logesh Kumar, Advocates |
| 21. | 5/2002 | — | L-11012/45/2001/IR (M) Dt. 20-12-2001 | Ms. Indira | Airport Director, Airport Authority of India (IAD), Chennai Airport | M/s. Lawrence & S. Sampath Kumar, Advocates | Mr. V. S. R. Hanu Babu Koka, Advocate |
| 22. | 7/2002 | — | L-11012/44/2001/IR (M) Dt. 4-01-2002 | M. Premmath | Airport Director, Airport Authority of India (IAD), Chennai Airport | R. Lawrence Advocate | Mr. V. S. R. Hanu Babu Koka, Advocate |
| 23. | 17/2002 | — | L-11012/60/2001/IR (M) Dt. 6-02-2002 | J. Selvakumar | International Airport Division, Airport Authority of India (IAD), Chennai Airport | M/s. Lawrence & S. Sampath Kumar, Advocates | Mr. V. S. R. Hanu Babu Koka, Advocate |
| 24. | 18/2002 | — | L-11012/59/2001/IR (M) Dt. 06-02-2002 | Smt. R.Chandra | International Airport Division, Airport Authority of India (IAD), Chennai Airport | M/s. Lawrence & S. Sampath Kumar, Advocates | Mr. V. S. R. Hanu Babu Koka, Advocate |
| 25. | 19/2002 | — | L-11012/61/2001/IR (M) Dt. 06-02-2002 | V. Devarajan | International Airport Division, Airport Authority of India (IAD), Chennai Airport | R. Lawrence & K. Vel Murugan, Advocates | A. J. Jawad, R. J. Kannan & V. Logesh Kumar, Advocates |
| 26. | 20/2002 | — | L-11012/64/2001/IR (M) Dt. 11-02-2002 | M. Varathan | International Airport Division, Airport Authority of India (IAD), Chennai Airport | R. Lawrence & K. Vel Murugan, Advocates | A. J. Jawad, R. J. Kannan & V. Logesh Kumar Advocates |
| 27. | 21/2002 | — | L-11012/62/2001/IR (M) Dt. 11-02-2002 | R. Ethiraj | International Airport Division, Airport Authority of India (IAD), Chennai Airport | R. Lawrence & K. Vel Murugan, Advocates | A. J. Jawad, R. J. Kannan & V. Logesh Kumar, Advocates |
| 28. | 22/2002 | — | L-11012/63/2001/IR (M) Dt. 11-02-2002 | Ms. Jayanthi | International Airport Division, Airport Authority of India (IAD), Chennai Airport | R. Lawrence & K. Vel Murugan, Advocates | A. J. Jawad, R. J. Kannan & V. Logesh Kumar, Advocates |

I.D. 15/2001:—

The Govt. of India, Labour Ministry in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 has referred the following industrial dispute for adjudication vide Order No. L-11012/24/99 /IR(M) dated 24.01.2000 to the Tamil Nadu State Industrial Tribunal, Chennai:—

“Whether the alleged termination and non-employment of Sri. Y. Swamivelu by the Airport Authority of India (IAD) is legal and justified? If not, to what relief is the workman entitled?”

The said Tribunal has numbered the reference as I.D. No. 14/2000 on its file. But, subsequently after the constitution of this Central Government Industrial Tribunal cum Labour Court, the case was transferred to this Tribunal. On receipt of the order of reference from the Tamil Nadu State Industrial Tribunal, the case has been taken on the file of this Tribunal as I.D. No.15/2001 and after notices to the parties, they appeared through their counsel and filed their Claim Statement, Counter Statement and also reply statements,

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:—

The Petitioner/I Party entered the service in the Respondent/Management on 10.10.1996 as a Sweeper and he continued to do his work for more than eight months, till his termination on 18.05.1997. The Petitioner's juniors namely one Devi, Lalitha, Banumathi, Shanthi have been made permanent by the Respondent, while the Petitioner was terminated without any reason or rhyme. It will amount to unfair labour practice on the part of the Respondent. The Petitioner was under the supervision of the Respondent's officers namely 'S/Sri Narayanaswamy, S. Jayaraman, A.M. Maraikayar, K. A. Kunjan and Smt. R. Latha, Housekeeping Executives and wages were paid by the Respondent/Management. After the termination, the Petitioner's representation before the Labour Officer, Conciliation, (Central) has not fructified any result. Hence, he prays that this Tribunal to pass an Award for reinstatement of the Petitioner in the Respondent/Management.

3. For this, the Respondent/Management has stated in their Counter Statement that the Petitioner was not a workman under the Respondent either casual, temporary or on ad-hoc basis and therefore, the Industrial Disputes Act will not apply to him. Only those employees whose services were utilised by the Respondent through contractors were regularised, as per the direction of the Supreme Court vide order dated 6.12.1996. Hence, it prays that the petition may be dismissed with costs.

4. Again in the reply statement, the Petitioner averred that only after perusing the records, the Government referred

the dispute to this Tribunal to enquire whether the termination of the Petitioner is justifiable or not? From the reference itself, one can presume that the Petitioner is an employee of the Respondent. While terminating the services of the Petitioner, the Respondent has not followed the procedure as laid down under Section 25N and 25G of the Industrial Disputes Act, 1947. The Respondent had illegally, unjustifiably not issued any order of appointment and not issued any wage slip etc. and this amounts to unfair labour practice on the part of the Respondent. If the relevant documents like attendance register or wage register are summoned, it will prove the contention of the Petitioner. The Petitioner is an employee of the Respondent through an agent of the Respondent namely Mr. Vetrivelan. This fact was also admitted by the Respondent before the conciliation proceedings. The said Mr. Vetrivelan also certified the same fact by giving a certificate. The Petitioner further contended that Mr. Vetrivelan was an agent of the Respondent/Management and he acted as a contractor, therefore, as per the recent judgement of the Supreme Court in AIR corporation's 'case, the Respondent/Management is liable to reinstate the Petitioner and he prays that the petition may be allowed.

5. For this, the Respondent has filed a reply statement contending that the Petitioner without producing anything wanted this Respondent to produce non-existing documents and further wanted to draw an adverse inference against the Respondent. Further, the Petitioner has taken a contradictory stand with regard to his appointment in the Claim Statement and in the reply statement. Therefore, the Respondent prays that the petition may be dismissed.

6. The points for my determination are —

- i) “Whether the demand of the workman for regularisation of his service by the management of Airport Authority of India is justified?
- ii) To what relief, the workman is entitled?”

I.D. 16/2001

The Govt. of India, Labour Ministry in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 has referred the following industrial dispute for adjudication vide Order No. L-11012/25/99 /IR(M) dated 24.01.2000 to the Tamil Nadu State Industrial Tribunal, Chennai:—

“Whether the demand of the workman Sri V. K. Rajendran for regularisation of his service by the management of Airport Authority of India is justified? If not to what relief he is entitled?”

The said Tribunal has numbered the reference as I. D. No. 16/2000 on its file. But, subsequently after the constitution of this Central Government Industrial Tribunal cum Labour Court, the case was transferred to this Tribunal.

On receipt of the order of reference from the Tamil Nadu State Industrial Tribunal, the case has been taken on the file of this Tribunal as I. D. No. 16/2001 and after notices to the parties, they appeared through their counsel and filed their Claim Statement, Counter Statement and also reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:—

The Petitioner entered into the services of the Respondent on 4-9-96 as sweeper and was carrying on his work, till he was refused employment orally for no reasonable cause or excuse. In other respect, the allegations of the Petitioner are more or less the same as made in the Claim Statement filed in I. D. No. 15/2001.

3. The Respondent in the Counter Statement has raised the same allegations as they have raised in the Counter Statement filed I. D. No. 15/2001.

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made, in the reply statement filed in I. D. No. 15/2001.

5. The points for my determination are -

(i) "Whether the demand of the workman Sri V. K. Rajendran for regularisation of his service by the management of Airport Authority of India is justified?

(ii) To what relief, the workman is entitled?" I. D. No. 17/2001:—

The Govt. of India, Labour Ministry in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 has referred the following industrial dispute for adjudication vide Order No. L-11012/26/99 /IR(M) dated 24-01-2000 to the Tamil Nadu State Industrial Tribunal, Chennai:—

"Whether the demand of the workman Sri S. Vijayan for regularisation of his service by the management of Airport Authority of India is justified? If not to what relief he is entitled?"

The said Tribunal has numbered the reference as I. D. No. 12/2000 on its file. But, subsequently after the constitution of this Central Government Industrial Tribunal cum Labour Court, the case was transferred to this Tribunal. On receipt of the order of reference from the Tamil Nadu State Industrial Tribunal, the case has been taken on the file of this Tribunal as I. D. No. 17/2001 and after notices to the parties, they appeared through their counsel and filed their Claim Statement, Counter Statement and also reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:—

The Petitioner entered into the services of the Respondent on 15-10-95 as sweeper and was carrying on his work, till he was orally refused employment for no reasonable cause or excuse. In other respect, the allegations of the Petitioner are more or less the same as made in the Claim Statement filed in I. D. No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I. D. No. 15/2001

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made in the reply statement filed in I. D. No. 15/2001.

5. The points for my determination are:—

(i) "Whether the demand of the workman Sri S. Vijayan for regularisation of his service by the management of Airport Authority of India is justified?

(ii) To what relief, the workman is entitled?"

I. D. No. 18/2001:—

The Govt. of India, Labour Ministry in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 has referred the following industrial dispute for adjudication vide Order No. L-11012/27/99/IR(M) dated 24-01-2000 to the Tamil Nadu State Industrial Tribunal, Chennai:—

"Whether the demand of the workman Sri M. Suresh for regularisation of his service by the management of Airport Authority of India is justified? If not to what relief he is entitled?"

The said Tribunal has numbered the reference as I. D. No. 17/2000 on its file. But, subsequently after the constitution of this Central Government Industrial Tribunal cum Labour Court, the case was transferred to this Tribunal. On receipt of the order of reference from the Tamil Nadu State Industrial Tribunal, the case has been taken on the file of this Tribunal as I. D. No. 18/2001 and after notices to the parties, they appeared through their counsel and filed their Claim Statement, Counter Statement and also reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:—

The Petitioner entered into the services of the Respondent on 10-9-96 as sweeper and was carrying on his work, till he was orally refused employment for no reasonable cause or excuse. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I. D. No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D. No. 15/2001.

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made in the reply statement filed in I.D. No. 15/2001.

5. The points for my determination are -

(i) "Whether the demand of the workman Sri M. Suresh for regularisation of his service by the management of Airport Authority of India is justified?

(ii) To what relief, the workman is entitled?"

I.D. No. 19/2001:—

The Govt. of India, Labour Ministry in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 has referred the following industrial dispute for adjudication vide Order No. L-11012/28/99/IR(M) dated 24-01-2000 to the Tamil Nadu State Industrial Tribunal, Chennai :—

"Whether the demand of the workman Sri G. Venkateswarulu for regularisation of his service by the management of Airport Authority of India is justified? If not to what relief he is entitled?"

The said Tribunal has numbered the reference as I.D. No. 15/2000 on its file. But, subsequently after the constitution of this Central Government Industrial Tribunal cum Labour Court, the case was transferred to this Tribunal. On receipt of the order of reference from the Tamil Nadu State Industrial Tribunal, the case has been taken on the file of this Tribunal as I.D. No. 19/2001 and after notices to the parties, they appeared through their counsel and filed their Claim Statement, Counter Statement and also reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows :—

The Petitioner entered into the services of the Respondent on 8-3-96 as sweeper and was carrying on his work, till he was orally refused employment for no reasonable cause or excuse. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I. D. No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I. D. No. 15/2001.

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made in the reply statement filed in I. D. No. 15/2001.

5. The points for my determination are :—

(i) "Whether the demand of the workman Sri G. Venkateswarulu for regularisation of his service by the management of Airport Authority of India is justified?

(ii) To what relief, the workman is entitled?"

I.D. No. 20/2001:—

The Govt. of India, Labour Ministry in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 has referred the following industrial dispute for adjudication vide Order No. L-11012/29/99/IR(M) dated 24-01-2000 to the Tamil Nadu State Industrial Tribunal, Chennai :—

"Whether the demand of the workman Sri A. Ravi for regularisation of his service by the management of Airport Authority of India is justified? If not to what relief he is entitled?"

The said Tribunal has numbered the reference as I.D. No. 13/2000 on its file. But, subsequently after the constitution of this Central Government Industrial Tribunal cum Labour Court, the case was transferred to this Tribunal. On receipt of the order of reference from the Tamil Nadu State Industrial Tribunal, the case has been taken on the file of this Tribunal as I.D. No. 20/2001 and after notices to the parties, they appeared through their counsel and filed their Claim Statement, Counter Statement and also reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows :—

The Petitioner entered into the services of the Respondent on 1-5-94 as sweeper and was carrying on his work, till he was orally refused employment for no reasonable cause or excuse. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D. No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D. No. 15/2001.

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made in the reply statement filed in I.D. No. 15/2001.

5. The points for my determination are :—

(i) "Whether the demand of the workman Sri A. Ravi for regularisation of his service by the management of Airport Authority of India is justified?

(ii) To what relief, the workman is entitled?"

ID. No. 572/2001:-

The Central Government, Ministry of Labour vide Notification Order No. L-11012/2/2001/IR(M) dated 30-03-2001 has referred the following dispute to this Tribunal for adjudication :-

“Whether the non-regularisation of Shri S. Chandrasekaran by the management of Airport Authority of India is legal and justified? If not, to what relief is the workman entitled to?”

After the receipt of the reference, it was taken on file as I.D. No. 572/2001 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows :-

The Petitioner entered into the services of the Respondent in July, 1995 as security and was carrying on his work, till he was orally refused employment for no reasonable cause or excuse. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D. No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D. No. 15/2001.

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made in the reply statement filed in I.D. No. 15/2001.

5. The points for my determination are :-

- (i) “Whether the non-regularisation of Sri S. Chandrasekaran by the Respondent/ Management Airport Authority of India is justified?
- (ii) To what relief, the workman is entitled?”

I.D. No. 588/2001 :-

The Central Government, Ministry of Labour vide Notification Order No. L-11012/10/2001/IR(M) dated 08-06-2001 has referred the following dispute to this Tribunal for adjudication :-

“Whether the alleged termination and non-employment of Shri V. Subbash by the Airport Authority of India (IAD) is legal and justified? If not, to what relief is the workman entitled?”

After the receipt of the reference, it was taken on file as I.D. No. 588/2001 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows :-

The Petitioner entered into the services of the Respondent through an agent Mr. Vetrivelan, who had contract with the Respondent. The Petitioner continuously worked under the Respondent from 1-3-95 to 30-10-96 as security guard, till the Respondent refused the Petitioner employment orally. In other respect, the allegations of the Petitioner are more or less the same as made in the Claim Statement filed in I.D. No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D. No. 15/2001.

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made in the reply statement filed in I.D. No. 15/2001.

5. The points for my determination are —

- (i) “Whether the alleged termination and non-employment of Sri V. Subbash by the Respondent Airport Authority of India is legal and justified?
- (ii) To what relief, the Petitioner is entitled?”

I.D. No. 589/2001:-

The Central Government, Ministry of Labour vide Notification Order No. L-11012/9/2001/IR(M) dated 08-06-2001 has referred the following dispute to this Tribunal for adjudication :-

“Whether the alleged termination and non-employment of Shri N. Murugan by the Airport Authority of India (IAD) is legal and justified? If not, to what relief is the workman entitled?”

After the receipt of the reference, it was taken on file as I.D. No. 589/2001 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows :-

The Petitioner entered into the services of the Respondent through an agent Mr. Vetrivelan, who had contract with the Respondent. The Petitioner worked as House Sweeping under the Respondent from 1-1-94 to 1-7-96 continuously till the Respondent refused employment to the Petitioner orally. In other respect, the allegations of the Petitioner are more or less the same as made in the Claim Statement filed in I.D. No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D. No. 15/2001.

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made in the reply statement filed in I.D. No. 15/2001.

5. The points for my determination are -

- (i) "Whether the alleged termination and non-employment of Sri N. Murugan by the Respondent Airport Authority of India is legal and justified?"
- (ii) To what relief, the Petitioner is entitled?"

I.D. No. 599/2001:-

The Central Government, Ministry of Labour vide Notification Order No.L-11012/7/2001/IR(M) dated 03-08-2001 has referred the following dispute to this Tribunal for adjudication :-

"Whether the alleged termination and non-employment of Shri G. Gnanaprakasam by the Airport Authority of India (IAD) is legal and justified? If not, to what relief is the workman entitled?"

After the receipt of the reference, it was taken on file as I.D. No. 599/2001 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:-

The Petitioner entered into the services of the Respondent on 1-1-90 as sweeper and was carrying on his work, till he was orally refused employment for no reasonable cause or excuse. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D.No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D. No. 15/2001.

4. The points for my determination are -

- (i) "Whether the alleged termination and non-employment of Sri G. Gnanaprakasam by the Airport Authority of India is legal and justified?"
- (ii) To what relief, the workman is entitled?"

I.D. No. 609/2001:-

The Central Government, Ministry of Labour vide Notification Order No.L-11012/51/2001/IR(M) dated 23-08-2001 has referred the following dispute to this Tribunal for adjudication :-

"Whether the alleged termination and non-employment of Shri P. Raja by the Airport Authority of

India (IAD) is legal and justified? If not, to what relief is the workman entitled?"

After the receipt of the reference, it was taken on file as I.D. No. 609/2001 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows :-

The Petitioner entered into the services of the Respondent on 1-3-95 as sweeper and was carrying on his work faithfully till he was orally refused employment for no reasonable cause or excuse. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D.No.15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D. No. 15/2001.

4. The points for my determination are —

- (i) "Whether the alleged termination and non-employment of Sri P. Raja by the Airport Authority of India is legal and justified?"
- (ii) To what relief, the workman is entitled?"

I.D. No. 610/2001 :-

The Central Government, Ministry of Labour vide Notification Order No.L-11012/52/2001/IR(M) dated 23-08-2001 has referred the following dispute to this Tribunal for adjudication :-

"Whether the alleged termination and non-employment of Shri N. Ravikumar by the Airport Authority of India (IAD) is legal and justified? If not, to what relief is the workman entitled?"

After the receipt of the reference, it was taken on file as I.D. No. 610/2001 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows :-

The Petitioner entered into the services of the Respondent on 1-3-95 as sweeper and was carrying on his work faithfully till he was orally refused employment for no reasonable cause or excuse. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D. No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D. No. 15/2001.

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made in the reply statement filed in I.D. No.15/2001.

5. The points for my determination are -

(i) "Whether the alleged termination and non-employment of Sri N. Ravikumar by the Respondent Airport Authority of India is legal and justified?"

(ii) To what relief, the Petitioner is entitled?"

I.D. No. 613/2001:—

The Central Government, Ministry of Labour vide Notification Order No. L-11012/26/2001/IR(M) dated 23-08-2001 has referred the following dispute to this Tribunal for adjudication :—

"Whether the alleged termination and non-employment of Shri G. Selvaraj by the Airport Authority of India (IAD) is legal and justified? If not, to what relief is the workman entitled?"

After the receipt of the reference, it was taken on file as I.D. No.613/2001 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:-

The Petitioner entered into the services of the Respondent on 4-10-88 as sweeper and was carrying on his work faithfully till he was orally refused employment for no reasonable cause or excuse. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D. No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D. No.15/2001.

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made in the reply statement filed in I.D. No. 15/2001.

5. The points for my determination are —

(i) "Whether the alleged termination and non-employment of Sri G. Selvaraj by the Respondent Airport Authority of India is legal and justified?"

(ii) To what relief, the Petitioner is entitled?"

I.D. No. 614/2001:—

The Central Government, Ministry of Labour vide Notification Order No. L-11012/27/2001/IR(M) dated 23-08-2001 has referred the following dispute to this Tribunal for adjudication :—

"Whether the alleged termination and non-employment of Smt. Rukumani by the Airport Authority of India (IAD) is legal and justified? If not, to what relief is the workman entitled?"

After the receipt of the reference, it was taken on file as I.D. No. 614/2001 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows :—

The Petitioner entered into the services of the Respondent on 9-2-95 as sweeper and was carrying on her work faithfully till she was orally refused employment for no reasonable cause or excuse. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D. No.15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D. No.15/2001.

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made in the reply statement filed in I.D. No.15/2001.

5. The points for my determination are —

(i) "Whether the alleged termination and non-employment of Smt. Rukumani by the Respondent Airport Authority of India is legal and justified?"

(ii) To what relief, the Petitioner is entitled?"

I.D. No. 615/2001:—

The Central Government, Ministry of Labour vide Notification Order No. L-11012/28/2001/IR(M) dated 23-08-2001 has referred the following dispute to this Tribunal for adjudication :—

"Whether the alleged termination and non-employment of Smt. K. Shanthi by the Airport Authority of India (IAD) is legal and justified? If not, to what relief is the workman entitled?"

After the receipt of the reference, it was taken on file as I.D. No. 615/2001 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows :—

The Petitioner entered into the services of the Respondent on 9-2-95 as sweeper and was carrying on

her work faithfully till she was orally refused employment for no reasonable cause or excuse. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D. No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D. No. 15/2001.

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made in the reply statement filed in I.D. No. 15/2001.

5. The points for my determination are -

(i) "Whether the alleged termination and non-employment of Smt. K. Shanthi by the Respondent Airport Authority of India is legal and justified?"

(ii) To what relief, the Petitioner is entitled?"

I.D.No. 616/2001:—

The Central Government, Ministry of Labour vide Notification Order No.L-11012/29/2001/IR(M) dated 23-08-2001 has referred the following dispute to this Tribunal for adjudication :—

"Whether the alleged termination and non-employment of Smt. A. Arulmary by the Airport Authority of India (IAD) is legal and justified? If not, to what relief is the workman entitled?"

After the receipt of the reference, it was taken on file as I.D.No. 616/2001 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:—

The Petitioner entered into the services of the Respondent on 1-11-94 as sweeper and was carrying on her work faithfully till she was orally refused employment for no reasonable cause or excuse. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D. No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D. No. 15/2001.

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made in the reply statement filed in I.D. No. 15/2001.

5. The points for my determination are -

(i) "Whether the alleged termination and non-employment of Smt. A. Arulmary by the Respondent Airport Authority of India is legal and justified?"

(ii) To what relief, the Petitioner is entitled?"

I.D. No. 617/2001:—

The Central Government, Ministry of Labour vide Notification Order No.L-11012/33/2001/IR(M) dated 23-08-2001 has referred the following dispute to this Tribunal for adjudication :—

"Whether the alleged termination and non-employment of Smt. B. Kadher Bee by the Airport Authority of India (IAD) is legal and justified? If not, to what relief is the workman entitled?"

After the receipt of the reference, it was taken on file as I.D. No. 617/2001 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows :—

The Petitioner entered into the services of the Respondent on 1-1-94 as sweeper and was carrying on her work faithfully till she was orally refused employment for no reasonable cause or excuse. Rest of the allegations in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D.No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D.No.15/2001.

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made in the reply statement filed in I.D.No.15/2001.

5. The points for my determination are :—

(i) "Whether the alleged termination and non-employment of Smt. B. Kadher Bee by the Respondent Airport Authority of India is legal and justified?"

(ii) To what relief, the Petitioner is entitled?"

I.D.No. 618/2001:—

The Central Government, Ministry of Labour vide Notification Order No.L-11012/35/2001/IR(M) dated 23.08.2001 has referred the following dispute to this Tribunal for adjudication :—

"Whether the alleged termination and non-employment of Shri Ch. Malyadri by the Airport

Authority of India (IAD) is legal and justified? If not, to what relief is the workman entitled?"

After the receipt of the reference, it was taken on file as I. D. No. 618/2001 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:—

The Petitioner entered into the services of the Respondent on 1.8.89 as sweeper and was carrying on his work faithfully till he was orally refused employment for no reasonable cause or excuse. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D.No.15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D.No.15/2001.

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made in the reply statement filed in I.D.No.15/2001.

5. The points for my determination are :—

- (i) "Whether the alleged termination and non-employment of Sri Ch. Malyadri by the Respondent Airport Authority of India is legal and justified?
- (ii) To what relief, the Petitioner is entitled?"

I.D.No.742/2001:—

The Central Government, Ministry of Labour vide Notification Order No.L-11012/34/2001/IR(M) dated 31.10.2001 has referred the following dispute to this Tribunal for adjudication :—

"Whether the alleged termination and non-employment of Shri K. Rajendran by the Airport Authority of India (IAD) is legal and justified? If not, to what relief is the workman entitled?"

After the receipt of the reference, it was taken on file as I.D. No.742/2001 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:—

The Petitioner entered into the services of the Respondent on 2.1.94 as sweeper and was carrying on his work faithfully till he was orally refused employment for no reasonable cause or excuse by the Respondent on 30-9-97.

In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D.No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D.No.15/2001.

4. The points for my determination are -

- (i) "Whether the alleged termination and non-employment of Sri K. Rajendran by the Respondent Airport Authority of India is legal and justified?
- (ii) To what relief, the Petitioner is entitled?"

I.D.No.747/2001:—

The Central Government, Ministry of Labour vide Notification Order No.L-11012/48/2001/IR(M) dated 27.11.2001 has referred the following dispute to this Tribunal for adjudication :—

"Whether the alleged termination and non-employment of Shri M. Premkumar by the Airport Authority of India (IAD) is legal and justified? If not, to what relief is the workman entitled?"

After the receipt of the reference, it was taken on file as I. D.No.747/2001 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:—

The Petitioner entered into the services of the Respondent on 1-1-95 as sweeper and was carrying on his work faithfully till he was orally refused employment for no reasonable cause or excuse by the Respondent on 31-01-96. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D.No.15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D.No.15/2001.

4. The points for my determination are :—

- (i) "Whether the alleged termination and non-employment of Sri M. Premkumar by the Respondent Airport Authority of India is legal and justified?
- (ii) To what relief, the Petitioner is entitled?"

I.D.No.5/2002 :—

The Central Government, Ministry of Labour vide Notification Order No.L-11012/45/2001/IR(M) dated 20.12.2001 has referred the following dispute to this Tribunal for adjudication :—

"Whether the alleged termination and non-employment of Ms. Indira by the Airport Authority of India (IAD) is legal and justified? If not, to what relief is the workman entitled?"

After the receipt of the reference, it was taken on file as I.D.No.5/2002 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:—

The Petitioner entered into the services of the Respondent on 10-2-95 as sweeper and was carrying on her work faithfully till she was orally refused employment for no reasonable cause or excuse by the Respondent. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D.No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D.No. 15/2001.

4. The points for my determination are :—

(i) "Whether the alleged termination and non-employment of Smt. Indira by the Respondent Airport Authority of India is legal and justified ?

(ii) To what relief, the Petitioner is entitled?"

I.D. No. 7/2002:—

The Central Government, Ministry of Labour vide Notification Order No.L-11012/44/2001/IR(M) dated 04-01-2002 has referred the following dispute to this Tribunal for adjudication :—

"Whether the alleged termination and non-employment of Shri M. Premnath by the Airport Authority of India (IAD) is legal and justified? If not, to what relief is the workman entitled?"

After the receipt of the reference, it was taken on file as I. D.No.7/2002 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:—

The Petitioner entered into the services of the Respondent on 1.1.95 as sweeper and was carrying on his work faithfully till he was orally refused employment for no reasonable cause or excuse by the Respondent. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D.No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D.No.15/2001.

4. Similarly, the Petitioner in the reply statement has raised the same allegations as made in the reply statement filed in I.D.No. 15/2001.

5. The points for my determination are -

(i) "Whether the alleged termination and non-employment of Sri M. Premnath by the Respondent Airport Authority of India is legal and justified?

(ii) To what relief, the Petitioner is entitled?"

I.D. No. 17/2002:—

The Central Government, Ministry of Labour vide Notification Order No. L-11012/60/2001/IR(M) dated 06.02.2002 has referred the following dispute to this Tribunal for adjudication :—

"Whether the claim of the workman Shri J. Selvakumar for reinstatement with back wages is legal and justified? If not, to what relief the workman is entitled?"

After the receipt of the reference, it was taken on file as I.D.No. 17/2002 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:-

The Petitioner entered into the services of the Respondent on 1-2-89 as sweeper and was carrying on his work faithfully till he was orally refused employment for no reasonable cause or excuse by the Respondent on 31-1-2-96. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D.No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D.No. 15/2001.

4. The points for my determination are :—

(i) "Whether the claim of the workman Sri J. Selvakumar with back wages is legal and justified?

(ii) To what relief, the Petitioner is entitled?"

I.D.No 18/2002:—

The Central Government, Ministry of Labour vide Notification Order No.L-11012/59/2001/IR(M) dated 06-02-2002 has referred the following dispute to this Tribunal for adjudication :—

"Whether the claim of the workman Smt. R. Chandra for reinstatement with back wages is legal and justified? If not, to what relief the workman is entitled?"

After the receipt of the reference, it was taken on file as I.D. No. 18/2002 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:—

The Petitioner entered into the services of the Respondent on 1-6-95 as sweeper and was carrying on her work faithfully till she was orally refused employment for no reasonable cause or excuse by the Respondent on 30-12-97. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D.No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D.No. 15/2001.

4. The points for my determination are :—

(i) "Whether the claim of the workman Smt. R. Chandra with back wages is legal and justified?

(ii) To what relief, the Petitioner is entitled?"

I.D.No.19/2002:—

The Central Government, Ministry of Labour vide Notification Order No.L-11012/61/2001/IR(M) dated 06-02-2002 has referred the following dispute to this Tribunal for adjudication :—

"Whether the claim of the workman Shri V. Devarajan for reinstatement with back wages is legal and justified? If not, to what relief the workman is entitled?"

After the receipt of the reference, it was taken on file as I. D.No. 19/2002 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows :—

The Petitioner entered into the services of the Respondent on 3-1-94 as sweeper and was carrying on his work faithfully till he was orally refused employment for no reasonable cause or excuse by the Respondent on 31-12-99. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D.No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D.No.15/2001.

4. The points for my determination are :—

(i) "Whether the claim of the workman Sri V. Devarajan with back wages is legal and justified?

(ii) To what relief, the Petitioner is entitled?"

I.D. No. 20/2002:—

The Central Government, Ministry of Labour vide Notification Order No.L-11012/64/2001/IR(M) dated 11.02.2002 has referred the following dispute to this Tribunal for adjudication :—

"Whether the claim of the workman Shri M. Varathan for reinstatement with back wages is legal and justified? If not, to what relief the workman is entitled?"

After the receipt of the reference, it was taken on file as I. D. No. 20/2002 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:—

The Petitioner entered into the services of the Respondent on 2-2-95 as sweeper through an agent Mr. Vetrivelan who had a contract with the Respondent. The Petitioner was carrying on his work faithfully till he was orally refused employment for no reasonable cause or excuse by the Respondent on 31-12-99. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D.No.15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D.No.15/2001.

4. The points for my determination are :—

(i) "Whether the claim of the workman Sri M. Varathan with back wages is legal and justified?

(ii) To what relief, the Petitioner is entitled?"

I.D. No. 21/2002:—

The Central Government, Ministry of Labour vide Notification Order No.L-1101262/2001/IR(M) dated 11-02-2002 has referred the following dispute to this Tribunal for adjudication :—

"Whether the claim of the workman Shri R. Ethiraj for reinstatement with back wages is legal and justified? If not, to what relief the workman is entitled?"

After the receipt of the reference, it was taken on file as I.D.No.21/2002 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:—

The Petitioner entered into the services of the Respondent on 1-6-95 as sweeper through an agent Mr. Vetrivelan, who had a contract with the Respondent. The Petitioner was carrying on his work faithfully till he was orally refused employment for no reasonable cause or excuse by the Respondent on 31-12-99. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D.No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D. No. 15/2001.

4. The points for my determination are:—

- (i) "Whether the claim of the workman Sri R.Ethiraj with back wages is legal and justified?"
- (ii) To what relief, the Petitioner is entitled?"

I. D. No. 22/2002:—

The Central Government, Ministry of Labour vide Notification Order No.L-11012/63/2001/IR(M) dated 11-02-2002 has referred the following dispute to this Tribunal for adjudication:—

"Whether the claim of the workman Ms. Jayanthi for reinstatement with back wages is legal and justified? If not, to what relief the workman is entitled?"

After the receipt of the reference, it was taken on file as I.D.No. 22/2002 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement and reply statements.

2. The averments made in the Claim Statement of the I Party/Petitioner are briefly as follows:—

The Petitioner entered into the services of the Respondent on 12-02-95 as sweeper and was carrying on her work faithfully till she was orally refused employment for no reasonable cause or excuse by the Respondent on 31-12-97. In other respect, the allegations of the Petitioner in the Claim Statement are more or less the same as made in the Claim Statement filed in I.D.No. 15/2001.

3. The Respondent in their Counter Statement has raised the same allegations as raised in the Counter Statement filed in I.D.No. 15/2001.

4. The points for my determination are:—

- (i) "Whether the claim of the workman Smt. Jayanthi with back wages is legal and justified?"
- (ii) To what relief, the Petitioner is entitled?"

Upon perusing the statements filed on either side in all these cases and on going through the common oral and documentary evidences and after hearing the

arguments of the learned counsel and having stood over for consideration, this Tribunal has passed the following:—

AWARD

2. Both sides have filed a joint memo stating that in all these cases relief sought for by the Petitioners are similar and the grievances against the Respondent/Management are the same and therefore, these cases may be clubbed together and the evidences may be taken in one case i.e. 15/2001 and documents may be marked in the same case. Therefore, these cases are tried jointly and common evidence was taken in all these cases. The Petitioners in I.D. Nos. 15/2001 to 19/2001, 572/2001, 588/2001, 589/2001, 613/2001, 615 to 617/2001, 5/2002, 19/2002 and 21/2002 are examined as WW1 to WW10 and WW20 to WW24. WW11 to WW19 are independent witnesses. Documents on the side of the Petitioners are marked as Ex W1 to W30. Out of which Ex.W1 to W11, W12, W15, W17, W18 to W30 are the certificates issued by one Sri J. Vetrivelan (WW19) alleged to be the labour contractor and W3 is the certificate given by Sri M. A. Jayaraman (WW11) alleged to be another labour contractor to some of the Petitioners.

Point No. 1 in all the cases:—

3. The allegation of the Petitioners in their Claim Statement in all the cases is that they were working as Sweepers/Scavengers/Securities under the control of the II Party/Management Airport Authority of India and after continuous employment of service, they were orally refused employment by the Respondent/Management and their juniors were made permanent workers and therefore, their termination of service would amount to unfair labour practice and the employment of juniors would amount to discrimination, illegal and mala fide in the eye of law. But, the II Party/Management in their Counter Statement contended that the Petitioners were not directly engaged as workmen by the Respondent/Management either casual, temporary or on ad-hoc basis and as per the Supreme Court direction, the employment of contract labourers who were engaged by the contractor and those who were in service as on 6-12-1996 were regularised by the Respondent. After the Counter Statement of the Respondent now they turn around and said that the Petitioners were appointed through an agent one Mr. Vetrivelan and Mr. Vetrivelan has no certificate of registration or licence as per the Contract Labour Abolition and Regulation Act as a contractor and therefore, the Petitioners were deemed to be the employees under the principal employer i.e. II Party/Airport Authority of India.

4. The learned counsel for the Petitioner contended that at the time of raising the industrial dispute, the Petitioners were placed much reliance on the judgement of the Hon'ble Supreme Court namely AIR INDIA STATUTORY CORPORATION Vs. UNITED LABOUR

UNION AND OTHERS reported in 1997 1 LLJ 1113 SC wherein the Hon'ble Supreme Court has held that *"the preamble to the constitution as its integral part is designed to realise socio-economic justice to all people including workmen harmoniously blending the details enumerated in the fundamental rights and the directive principles. The conditions of labour are not left at the whim and fancy of the principal employer. Once the contractor is removed from the field and direct linkage between the labour and principal employer, he has an obligation to absorb them. Thus the rights of the employee for absorption gets ripened and fructified. If any violation has been committed by the employer, the Court instead of leaving the workmen in lurch would properly grant relief in accordance with law"* and therefore, the Petitioners who worked under the Respondent/Management and who were terminated from the service have raised these industrial disputes but subsequently, the Larger Bench of the Supreme Court in 2001 11 LLJ 1087 in the case of STEEL AUTHORITY OF INDIA Vs. NATIONAL UNION WATER FRONT WORKERS AND OTHERS has prospectively overruled the above decision reported in 1997 1 LLJ 1113 SC and further held that *"if the contract between the principal employer and the contractor is not genuine but mere camouflage, the contract labour will have to be treated as an employee of the principal employer and should be directed to regularise the services of the contract labour, subject to conditions that should be satisfied and if the contract labour found to be genuine and on issuance of notification prohibiting engagement of contract labour, the contract labour shall be given preference, if principal employer intends to employ regular workmen provided such Casual Labour found to be suitable and if necessary, by relaxing conditions as to maximum age"* and therefore, after the pronouncement of the historic judgement, now the Petitioners are claiming the benefit of employment and they for to allege to be the employees under the principal employer namely II Party/Management Airport Authority of India. Further, the learned counsel for the Petitioner relied upon the judgement reported in 1971 FJR Page 79 FCI LOADING & UNLOADING WORKERS' UNION, BANGALORE Vs. FOOD CORPORATION OF INDIA AND TWO OTHERS, wherein it was held that *"the provisions of Contract Labour Act do not override the provisions of the Industrial Disputes Act in regard to their dispute with the principal employer. that the Contract Labour Act does not contain any provision for protecting the workmen against unlawful termination of their services by their employer and therefore, the Industrial Disputes Act is applicable to test the validity of the termination of their services.... Even though an invalid registration certificate or an invalid licence or failure to obtain the registration certificate or licence under the Contract Labour Act may attract the penal consequences of Section 23 of that Act, but the workmen employed by the contractor enjoy all*

the rights under the Industrial Disputes Act, whether their employment as contract labour is regular or irregular" and he contended that though the employer intends to retrench the workers employed by the labour contractor, the employer should follow the statutory requirements under the Industrial Disputes Act. Further, he contended that the provisions of Contract Labour Act do not override the provisions of Industrial Disputes Act in regard to their dispute with the II Party/Management namely Airport Authority of India and he also contended that the Contract Labour Act does not contain any provision for protecting the workmen against the unlawful termination of the services of the Petitioners and therefore, in this case, the Industrial Disputes Act is applicable to test the validity of the termination of their service. He further contended that since the Respondent/Management have retrenched the workmen namely the Petitioners, the II Party/Management should follow the statutory requirements under the Industrial Disputes Act, 1947. It is his further contention that even though Section 25H of the Industrial Disputes Act, 1947 was not in statute book, the Supreme Court has held in 1961 11 LLJ 110 CAWNPORE TANNERY LTD. KANPUR Vs. GUHA(S) AND OTHERS wherein the Hon'ble Supreme Court has held that *"industrial adjudicators generally recognized the principle that if the employer retrenched the services of an employee on the ground that the employee in question had become surplus, it was necessary that whenever the employer had an occasion to employ another, the retrenched employee should be given another opportunity to join the service. This principle was regarded as general application in the industrial adjudication on the ground that it was based on consideration of fair play and justice."* Relying on this judgement, the learned counsel contended that in this case, even the persons who have recruited subsequent to the recruitment of the Petitioners were regularised by the Respondent/Management and therefore, applying the ratio of the judgement in the above case, the Respondent/Management has to re-employ the Petitioners in their establishment.

5. But, on the other hand, the learned counsel for the Respondent/Management contended that the Petitioners in all these cases have raised at the first instance that they have been entered into the service under the Respondent/Management directly during various periods and they further contended that they have put in continuous service and subsequently they were refused employment for no reason or cause or excuse, but they have not produced a single sheet of paper or document that they were employed by the Respondent except their interested, one sided testimony i.e. nothing to show that they were employed by the Respondent/Management directly and therefore, there is no master and servant relationship between the Respondent/Management and the Petitioners. Unless there is master

and servant relationship, the provisions of Industrial Disputes Act cannot be invoked and the learned counsel relied upon the judgement reported in 2003 1 LLJ 236 in which the High Court of Kerala has held that *if there is no such master and servant relationship exist, then the termination of the services of the concerned persons would not amount to retrenchment as defined under the Industrial Disputes Act, 1947*. It is his further contention that subsequently the Petitioners in their evidence before this Court have changed their version and contended that they were working under one Mr. Vetrivelan, who was a contractor for supplying manpower to the II Party/Management and his contract is sham and therefore, they are directly come under the principal employer. Further the Petitioners contended that in view of the judgement in AIR 'INDIA STATUTORY CORPORATION'S CASE, THEY SHOULD have been taken as employees, on the other hand overlooking their seniority, their juniors were appointed. But, this contention do not hold good because the above judgement has been overruled on 3-8-2001 in the case of SAIL Vs. NATIONAL UNION WATERFRONT WORKERS AND OTHERS's case and it was held in that case that there should not be any automatic absorption of contract labourers and the principal employer cannot be required to absorb the contract labour, who was working in the concerned establishment. It is his further contention that there is no provision in Contract Labour Act whereby it can be construed that the failure on the part of the contractor under Section 12 of the Contract Labour Act, an employee employed by the contractor would become direct employee of the principal employer unless and until and the Petitioners in this case establish the fact that they were doing the work in the establishment of the II Party/Management on the date of the notification i.e. on 6-12-1996. But, in this case, they have not established the fact that they were in the employment of the Respondent/Management (through the contractor on the date of Notification i.e. 6-12-96.

6. Again, on behalf of the Petitioner, the learned counsel for the Petitioner argued that the right of rejection of the employer with a right to refuse of work would certainly establish the master and servant relationship in this case and though the Petitioners have not produced any document to show that they were working in the II Party/Management on the date of their termination, all the documents pertaining to their employment were with the II Party/Management and the Petitioners have examined the contractors Mr. Vetrivelan and one Mr. Jayaraman as WW19 and WW11 respectively and they have clearly stated that the Petitioners were employed as contract labourers till they were stopped by the Respondent/Management and they have supplied manpower to the II Party/Management. Further, even the present employees and the past employees of the II Party/Management who were examined as WW12 to WW18 have clearly stated

that the Petitioners were employed through Mr. Vetrivelan and other contractors in the Respondent/Management establishment and therefore, the Petitioners should be declared as employees of Respondent/Management and they are entitled to the benefits under the Industrial Disputes Act.

7. Though I find much force in these arguments, I cannot accept these arguments because the Petitioners contended that they were under the employment of the Respondent/Management before they were stopped from doing the work, therefore, the burden of proving this fact is upon the Petitioners. Further, on the side of the Petitioners even though much reliance was placed on the oral evidence of WW12 to WW18, none of the witnesses has stated from which period to which period the Petitioners were worked under the II Party/Management and under whose supervision the Petitioners were worked and so on. I find the oral evidences given by WW12 to WW18 are only interested and no reliance can be placed on the evidence of these witnesses. Further, the Petitioners alleged that the records pertaining to their services were with the Respondent/Management. But, they have not taken any steps to summon the relevant records from the II Party/Management. On the other hand, they wanted to rely on the oral, uncorroborated evidences of the said witnesses, which I think they did not establish the case of the Petitioners.

8. In this case, the Petitioners have produced documents Ex. W1 to W30 the service certificates given by Mr. Vetrivelan, Mr. Jayaraman and one Mr. T. Girija. On a perusal of these documents, I find that these documents have been created only for the purpose of this case. In some of the documents there are overwriting, interPELLing and corrections and the copies were taken by mechanical process and so on. Further, Mr. Vetrivelan and Mr. Jayaraman who were examined as WW19 and WW11 respectively have not stated how they have given these certificates without any records with them, because the dates mentioned in these certificates are different. Though they have stated that they have entered into contract with the Respondent/Management for supply of manpower, they have not produced any single document to prove their contention and under such circumstances, I cannot believe their oral evidence adduced by these witnesses that the Petitioners were in employment of the Respondent/Management on the crucial date i.e. 06-12-1996.

9. Then again the learned counsel for the Petitioner argued that the Petitioners should be given the benefit of employment on the ground that though there is no automatic absorption as stated in SAIL case, since the Petitioners have approached the Tribunal even before the judgement in SAIL'S case and the operation of the said SAIL case, since the Petitioners have approached the Tribunal even before the judgement in SAIL'S case and

the operation of the said case is only prospective operation and therefore, they should be absorbed by the II Party/Management. But, I find that there is no substance in this contention because in 2002 (3) SCC 433 in the case of NITINKUMAR NATHALAL JOSHI AND OTHERS Vs. ONGC LTD. AND OTHERS, wherein the Hon'ble Supreme Court has clearly rejected a similar contention of the workmen. In that case, some workmen employed as contract labourers in the capacity of boiler operators through contractor, have approached the Supreme Court and contended that they were employed as contract labourers with the ONGC and consequent upon the Contract Labour (Abolition and Regulation) Act by the Central Government, the contract labourers are prohibited and the appellants claimed that they should be treated as employees of ONGC. The Single Bench of the Gujarat High Court has upheld the contention of the workmen. When it came up before the Division Bench, they were of the view that there were disputed questions of fact and they came to the conclusion that it should be done only by conciliation and on failure by Industrial Tribunal. Against this, the appellants approached the Supreme Court. The Supreme Court has held, after relying the judgement reported in 2001 7 SCC 1 in the case of STEEL AUTHORITY OF INDIA Vs. NATIONAL UNION WATER FRONT WORKERS AND OTHERS, that "there should not be any automatic absorption of contract labourers working in the establishment and further held on their arguments that the Petitioners should be given benefit of \ employment on the ground that the decision of the above case is prospective in operation, on the other hand, they have approached the Court even prior to the decision that " the Petitioners/appellants were not absorbed by the principal employer before the judgement in SAIL case and therefore, it cannot be said that the decision of SAIL case cannot be applied." Therefore, on a due consideration of the entire oral and documentary evidences in this case, I come to the conclusion that the demand of the petitioners for regularisation of their service by the II Party/Management Airport Authority of India is not justified and the alleged termination and non-employment of the petitioners by the II Party/Management Airport Authority of India is legal and justified.

Point No. 2 in all cases:—

10. The next question to be decided in this case is to what relief the workmen are entitled to?

In view of my foregoing findings, the I Party/ Petitioners are not entitled to any relief.

11. Thus, the references are answered accordingly, (Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 29th September, 2003.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined as common witnesses for the Petitioners :—

For the I Party/Workman:—

WW1 Sri V.K.Rajendran
WW2 Sri N.Murugan
WW3 Sri G. Selvaraj
WW4 Sri S.Chandrasekar
WW5 Sri Y. Samuvelu
WW6 Sri S.Vijayan
WW7 Sri M.Suresh
WW8 Sri G. Venkateswarlu
WW9 Sri R.Ethiraj
WW10 Smt. Indira
WW11 Sri M.A.Jayaraman
WW19 Sri J.Vetrivelan
WW20 Sri V. Subash
WW21 Smt. A. Anulmary
WW22 Smt. K. Shanthi
WW23 Sri B. Kadarbee
WW24 Sri V. Devarajan

For the II Party/Management:— None

Common Documents Marked:—

For the I Party/Workmen:—

| Ex. No. | Date | Description |
|---------|------------|--|
| W1 | 05-01-97 | Xerox copy of the service certificate issued to Sri N. Murugan by the Labour contractor Mr. J.Vetrivelan. |
| W2 | 15-03-97 | Service certificate issued to Mr. V.K.Rajendran by Labour contractor Mr. J.Vetrivelan. |
| W3 | 12-01-93 | Service certificate issued to Mr. G.Selvaraj by Labour contractor Mr. M.A.Jayaraman. |
| W4 | 30-11-93 | Service certificate issued to Mr. C.H. Malyadri by Deputy General Manager (Cargo). |
| W5 | 26-05-98 | Service certificate issued to Mr. C.H.Malyadri by Contractor M/s. T.Girija |
| W6 | 10-03-94 | Service certificate issued to Mr. C.H.Malyadri by SLK Contract Services. |
| W7 | Nil | Xerox copy of the identity card issued to C.H.Malyadri by IAAI |
| W8 | 26-09-2000 | Xerox copy of the office order showing the contract labourers who have been regularised as Safaiwalas and granted annual increments. |

| | | | | | |
|-----|------------|--|---|------------|---|
| W9 | 09-03-93 | Xerox copy of the temporary pass issued to Sri G. Selvaraj issued by Bureau of Civil Aviation Security. | W24 | 05-01-97 | Service certificate issued to Mr. V.Subash by the labour contractor Mr. J.Vetrivelan. |
| W10 | Nil | Xerox copy of the identity card issued to Mr. Selvaraj by the IAAI | W25 | 01-03-97 | Service certificate issued to Mrs. Arul Meri by the Labour contractor Mr. J.Vetrivelan. |
| W11 | Nil | Service certificate issued to Mr. Y. Swamivelu by Labour contractor Mr. J.Vetrivelan. | W26 | 31-12-96 | Service certificate issued to Mr. S.Chandrasekaran by the Labour contractor Mr. J.Vetrivelan. |
| W12 | 25-02-97 | Service certificate issued to Mr. S.Vijayan by Labour contractor Mr. J.Vetrivelan. | W27 | 01-03-97 | Service certificate issued to Mrs. K.Shanthi by the Labour contractor Mr. J.Vetrivelan |
| W13 | Nil | Xerox copy of the affidavit of Sri S.Vijayan. | W28 | 01-01-2000 | Service certificate issued to Mr. Kadhar Bee by the Labour contractor Mr. J.Vetrivelan. |
| W14 | 31-12-96 | Xerox copy of the certificate issued to Sri S. Vijayan by Sub Inspector of Police, Madras. | W29 | 31-12-97 | Service certificate issued to Mr. V.Devarajan by the Labour contractor Mr. J.Vetrivelan. |
| W15 | 16-03-97 | Service certificate issued to Mr. M.Suresh by Labour contractor Mr. J.Vetrivelan. | W30 | 01-03-97 | Service certificate issued to Mrs. Indira by the Labour contractor Mr. J.Vetrivelan. |
| W16 | 26-09-2000 | Xerox copy of the office order showing the contract labourers who have been regularised as Safaiwalas and granted annual increments. | <p>For the II Party/Management:— Nil</p> <p>नई दिल्ली, 25 नवम्बर, 2003</p> <p>का.आ. 3427.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आयल एण्ड नैचुरल गैस को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 5/2001 (TNID- 74/2000)) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।</p> <p>[सं. एल.-30012/2/98-आई. आर. (सी. 1)]</p> <p>एस. एस. गुप्ता, अवर सचिव</p> <p>New Delhi, the 25th November, 2003</p> <p>S.O. 3427.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 5/2001 (TNID-74/2000)) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil & Natural Gas Corporation Ltd. and their workman, which was received by the Central Government on 21-11-2003.</p> <p>[No. L-30012/2/98-IR (C-I)]</p> | | |
| W17 | 15-03-97 | Service certificate issued to Mr. G.Venkateswaralu by the labour contractor Mr. J.Vetrivelan. | | | |
| W18 | 01-01-2000 | Service certificate issued to Mr. R.Ethiraj by The labour contractor Mr. J.Vetrivelan. | | | |
| W19 | 03-02-96 | Service certificate issued to Mr. Prem Kumar by the labour contractor Mr. J.Vetrivelan. | | | |
| W20 | 31-12-99 | Service certificate issued to Mr. M.Varadhan by the Labour contractor Mr. J.Vetrivelan. | | | |
| W21 | 30-12-97 | Service certificate issued to Mrs. Jayanthi by the labour contractor Mr. J.Vetrivelan. | | | |
| W22 | 05-01-2001 | Service certificate issued to Mr. J. Selvakumar by the labour contractor Mr. J.Vetrivelan. | | | |
| W23 | Nil | Xerox copy of the pay slip of Sri S. John issued by Airports Authority of India. | | | |

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 22nd October, 2003

Present :

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 5/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 74/2000)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of M/s. Oil & Natural Gas Corporation Ltd. and their workman Sri R. Balasubramanian)

BETWEEN

Sri R. Balasubramanian : I Party/Workman

AND

The Group General Manager, : II Party/Management
Oil & Natural Gas Corporation Ltd.
Cauvery Project, Neravy,
Karaikkal.

Appearance :

For the Workman : Mr. S. Ayyathurai, Advocate

For the Management : Mr. P. Arulmudi, Advocate

AWARD

The Central Government, Ministry of Labour vide Notification No. L-30012/2/98/IR(C-I) dated 21-04-1999 has earlier referred this industrial dispute to CGIT-Cum-Labour Court at Bangalore for adjudication. The CGIT-Cum-Labour Court at Bangalore has taken the same on its file as C.R. No. 76/99 and the Ministry by its order dated 19-02-2000 has transferred this case to Tamil Nadu State Industrial Tribunal, Chennai for adjudication and it was numbered as 74/2000 and subsequently, after the constitution of this Central Govt. Industrial Tribunal-Cum-Labour Court, the said industrial dispute was transferred to this Tribunal and on receipt of the records, it was re-numbered as I.D.No.5/2001. The dispute referred by the Govt. in the Schedule is hereunder :—

"Whether the action of the management of ONGC, Neravy, Karaikkal in terminating the services of Shri R. Balasubramanian, Security Guard is justified? If not, to what relief the concerned workman is entitled?"

2. After the dispute was taken on file on the file of this Court, notices were issued to both parties and both the parties entered appearance through their advocates and they have filed the Claim Statement and Counter Statement respectively. On the side of the II Party, the Petitioner alone was examined as WW1 and 11 documents were marked as Ex. W1 to W11 and on the side of the II Party/Management two witnesses namely MW1 and MW2 were

examined and 8 documents were marked as Ext. M1 to M8.

3. The allegations made in the Claim Statement of the Petitioner are as follows:—

The Petitioner joined the services of the Respondent Corporation in 1984 as a security guard under the contract of Thai Security Services. In 1988 he was brought into the category of term based staff of the Respondent/Management on monthly salary of Rs.1,500/-. The Petitioner was discharging his duties diligently. The Petitioner used to move closely with the leaders of the trade union as to get their help for getting confirmation in his service, which was not liked by the Senior Security Officer Mr. Shamanlal. The said Senior Security Officer has called the Petitioner and warned him of dire consequences if he is associating himself with the said Union. While so, on 6-1-93, the Petitioner was taken by two security inspectors namely S/Sri Jayapal and Singaravel inside the security room, where he was told that on the night of 31-12-92 during his duty hours he stole and sold chemicals to DCRS supervisor and oil well cement to Sundarapatti villagers and the said security inspectors wanted a statement from the Petitioner. When the Petitioner denied the allegation, he was told by the security inspectors that if he is not made a statement in writing admitting the acts alleged against him, then he would be handed over to police as instructed by Senior Security Officer. Out of fear, the Petitioner has executed the statement and received the salary and went home. When he has reported for duty as usual, on 11-1-93, he was called upon by the Senior Security Officer and he directed the Petitioner to get 'no complaint certificate' from the Vallam Police Station and further he directed only after obtaining the same he would be allowed to report for work. Then he enquired the Sub-Inspector, Vallam Police station and after enquiry with the Petitioner and Sundarampatti Village people, the Sub Inspector has given 'no complaint certificate' to the Petitioner. While so, on 17-03-97 the II Party/Management has issued a show cause notice against the Petitioner. Even after the Petitioner has submitted his explanation, the Petitioner and one Mr. E.S.Natarajan, Security Supervisor were placed under suspension on 4-10-93. After that an enquiry was conducted by the Chief Engineer. On his behalf, the Petitioner gave a statement. Even before that the security inspector Mr. Jayapal called the Petitioner and told that he should not cross examine the management witnesses and if cross examine, then he would lose his job. Therefore, the Petitioner has not cross examined the witnesses. Thereafter, the Petitioner was served with second show cause notice dated 10-05-94 stating that charge levelled against him was proved and therefore, it was decided to terminate his services and the Petitioner was asked to submit his explanation. Even at that time, the Petitioner was not served with the copy of the report of the Enquiry Officer. Again, the Petitioner has submitted

his explanation on 17-05-1994. The Respondent by an order dated 30-03-95 terminated the services of the Petitioner w.e.f. 4-10-93, The order of termination is illegal. The Petitioner submits that the enquiry proceedings was not conducted fairly and properly in accordance with principles of natural justice and therefore, it is void and he prays that Hon'ble Tribunal may be pleased to decide the validity of the order of termination as a preliminary issue. Further, the Petitioner was denied reasonable opportunity by the Respondent/Management to defend himself in the enquiry. In any event, the punishment of dismissal is highly disproportionate and unjustified, considering the unblemished past record of service of the Petitioner. Therefore, he prays this Tribunal to direct the Respondent to reinstate him in service with continuity of service, back wages and other attendant benefits and so on.

4. Against this, II Party/Management in its Counter Statement and also in additional Counter Statement alleged that it is false to allege that the Respondent has not given any reasonable opportunity to the Petitioner. On the other hand, the Petitioner has participated in the domestic enquiry held against him. The Petitioner was employed as 'term based temporary contingent (worker) security guard' on daily wage basis. The allegation that only due to the ill-will, the Senior Security Officer has created a case against him is false. It is also false to state that a confessional statement was obtained by force by two security inspectors admitting the acts committed by him. The Respondent has given copies of documents and list of witnesses before the enquiry to the Petitioner. Further, the Petitioner himself has confessed before the Enquiry Officer and he has given a statement of his own will without any coercion. Therefore, the enquiry held by the Respondent was in accordance with principles of natural justice. In his confessional statement on 8-1-93, the Petitioner has clearly admitted his guilt and therefore, the allegation is baseless and this contention was raised after a lapse of long time. Even in his reply dated 1-4-93 to show cause notice he confessed his guilt and seeks pardon. Since the Petitioner was a term based security guard, he was not governed either by ONGC CDA Regulations or by Certified Standing Orders applicable to contingent employees. Therefore, he is not entitled for payment of subsistence allowance. Anyhow, without prejudice to the above contention, the Respondent submits that if the Tribunal comes to a conclusion that the enquiry conducted against the Petitioner is vitiated on any account, the Respondent/Management craves leave of this Court to let in evidence to substantiate their claim.

5. The points for consideration in these circumstances are —

- (i) "Whether the charge against the Petitioner/ Workman has been proved beyond doubt;
- (ii) Whether the action of the management of

ONGC, Neravy, Karaikkal in terminating the services of Sri R.Balasubramanian, Security Guard is justified ? and

- (iii) To what relief the concerned workman is entitled ?"

6. Point Nos. 1 & 2 :—

In this case, the main issues are 'whether the enquiry conducted by the II Party/Management against the Petitioner/Workman is just and proper' and 'whether the action of the II Party/Management in terminating the services of the Petitioner Sri R.Balasubramanian is justified?' On the side of the Respondent/Management two witnesses were examined. The first witness is one Mr. V.Parthasarathy, now working as Personnel and Administrative Officer in the Respondent/Management at Neravi, Karaikkal and the second witness is one Mr. V.Jayabal, who was working as Security Inspector on 31-12-92 i.e. on the alleged date of occurrence. The allegations of the II Party/Management are that on 8-1-93 one Mr.D.Subramanian, Security Guard working under the Respondent/Management came to the Security Inspector Mr. Jayabal and represented that the Petitioner Sri R.Balasubramanian has done so many misdeeds and he (Mr.D.Subramanian) should not be posted along with the Petitioner and he asked permission to the said Security Inspector and after due enquiry, the Petitioner has admitted his guilt and therefore, the said Security Inspector has obtained a statement from the Petitioner in writing, which is marked as Exs. M7 and after that he has handed over to the Senior Security Officer and thereafter, domestic enquiry was conducted. Even before that on 3-3-93 the Petitioner has given a letter to the Senior Security Officer, which is marked as Ex.M8. But, on behalf of the Petitioner it was contended that Ex.M7 and M8 were obtained by force, coercion and undue influence and no such incident has happened on 31-12-92 and even in the enquiry, it was not proved that the alleged articles which had said to have been sold / handed over by the Petitioner, which belonged to the Respondent/Management and it was also not proved by the Respondent that such articles were stolen from the godown by examining the godown keeper. Under such circumstances, the enquiry conducted by the Respondent is vitiated. Further, it is the contention of the Petitioner that no opportunity was given to the Petitioner to cross examine the witnesses examined by the Respondent/Management side in the domestic enquiry and further no documents were given and no list of witnesses was given to the Petitioner. Similarly, even the copy of the Enquiry Officer's report has not been given to the Petitioner and therefore, the enquiry itself is vitiated by illegality and therefore, no reliance can be placed on the enquiry conducted by the Respondent/Management. Further, on the Petitioner's side, the show cause notice dated 17-03-93 issued by the Respondent is marked as Ex.

W1 and the explanation submitted by the Petitioner dated 1-4-93 is marked as Ex. W2 and the suspension order dated 04-10-93 is marked as Ex. W3 and the 2nd show cause notice issued by the Respondent dated 10-05-94 is marked as Ex. W7 and the explanation submitted for this notice dated 17-05-94 is marked as Ex. W8 and the copy of the certificate of the Vallam Police issued to the Petitioner is marked as Ex. W11 and the second termination notice given to the Petitioner is marked as Ex. W9. It is the further argument of the learned counsel for the Petitioner that one of the main ingredients of the offence of theft is that the property involved must be belonged to some person and the person alleged to have committed theft in respect of the property must have removed the property. But, in this case, the II Party/Management has not established that the property involved in this case i.e. ten bags of caustic soda and ten bags of oil well cement belonged to the II Party/Management. Even the Security Inspector, who was examined as MW2 has clearly stated that they have not verified from the stores whether any bags contained caustic soda and/or oil well cement were missing. Further, he has clearly stated that they have not received any such complaint from the godown keeper. Under such circumstances, it cannot be said the Petitioner, who worked as security guard has sold these alleged items to the supervisor and also to the villagers. It is his further contention that even in the show cause notice it is stated that the Respondent has received complaints from different sources, the Respondent as such framed charges against the Petitioner. But, they have not established either before this Court or before the Enquiry Officer that from which source or from which complaint, they had come to a conclusion that the Petitioner had sold the bags of caustic soda and oil well cement bags to the supervisor and also the villagers. Though the Respondent has alleged that the Petitioner has given a confessional statement on 3-1-93, the said confessional statement was obtained by coercion and undue influence and therefore, no reliance can be placed against the documents. Further, it is his argument that even though it is alleged that the confessional statement and also the letter dated 3-3-93 Ex. M8 written by Petitioner's own handwriting, no one has witnessed these documents and therefore, no reliance can be placed on these documents. Even though, I find some force in these arguments, on considering the evidence produced on either side, I am of the opinion that the Petitioner's contention that the confessional statement and also the letter Ex. M7 and M8 respectively were obtained by coercion and force is not true because if really, Ex. M7 and M8 were obtained by force and coercion, there was nothing to prevent the Petitioner from giving a notice even on 1-4-93 i.e. the date on which he has submitted his explanation which is marked as Ex. W2. In Ex. W2, the Petitioner has clearly stated that after the occurrence of

the alleged offence, he has been called upon by the Security Section for an enquiry and a statement has been obtained from him by them. If really, the Petitioner's contention is true i.e. that the Security Inspectors namely S/Sri Jayapal and Singaravel have obtained the confessional statement by coercion, he can mention the same in his letter or even he can make a complaint about the same before the higher ups. But, instead of doing anything in that direction, after a lapse of one year, he has taken a stand that the confessional statement and also the letter were obtained by coercion, force and undue influence. In this case, the initial burden to prove the fact that confessional statement and letter Ex. M7 and M8 respectively were obtained by coercion lies on the side of the Petitioner. But, in this case except the interested oral testimony of the Petitioner, there is nothing to show that both the statement and letter were obtained by coercion. Under such circumstances, I am not inclined to accept the contention of the Petitioner that these letters Ex. M7 and M8 were obtained by coercion. Further, from the enquiry report produced by the Respondent, it is clear that the Petitioner has moved with the ONGC Petroleum Coal Labour Union so that his case could be considered and he should be represented by the Union members and in turn, the union members have written a letter to the II Party/Management and in that letter also the Union has stated that the Petitioner has confessed before the Respondent/Management and a lenient view is to be taken in that regard. Even though, the contention of the letter cannot be looked into at this stage, the circumstantial evidence shown before this Court clearly established that the contention of the Petitioner that the confessional statement and letter were obtained by the Respondent/Management by force and coercion is without any substance.

7. Again, the learned counsel for the Petitioner argued that when the statement made by the Petitioner did not amount to a clear or unambiguous admission of his guilt, the Respondent cannot shift their responsibility by not examining the other witnesses namely the godown keeper and also the villagers of Sundarampatti village clearly establish the fact that the enquiry held by the Respondent is not just and proper and it is his further contention that even before this Court also it was not established that the property alleged to have been sold by the Petitioner belonged to the Respondent and so it cannot be held that the charge against the Petitioner has been proved. But, I find there is no substance in this contention because from Ex. M7 and M8, it is clear that the Petitioner has given the statements in unambiguous terms that he has sold the properties of the Respondent to the Supervisor and also the villagers and it was not established that these statements were obtained by force or by coercion and therefore, it is clearly established that he has given a confessional statement and based on that

confessional statement, the Respondent has acted and an action has been taken against the Petitioner.

8. In this case, though the Respondent/Management has contended that sufficient opportunity was given to the Petitioner even at the time of domestic enquiry, since the Respondent has examined the said security inspector and also the present Senior Security Officer, there is no scope for dealing with the question whether the domestic enquiry conducted by the Respondent/Management is just and proper. Any how, on a perusal of the documents Ex. M7 and M8 produced by the Respondent/Management and the oral evidence of MW2 Security Inspector, I find, it is clearly proved before this Court that the charge framed against the Petitioner has been clearly proved and there is no dispute that Ex. M7 and M8 were given by the Petitioner voluntarily without any force or coercion. Further, the attendant circumstances in which Ex. M7 and M8 were given and also the circumstantial evidence shown before this Court clearly established this fact. Therefore, I find the issue Nos. 1 and 2 against the Petitioner.

9. The next point to be decided in this industrial dispute is to what relief the Petitioner is entitled?

In view of my finding that the charge framed against the Petitioner/Workman Sri R. Balasubramanian has been proved by the II Party/Management, the action of the II Party/Management, ONGC Ltd. Neravy, Karaikkal in terminating the services of the concerned workman Sri R. Balasubramanian is justified. Hence, the Petitioner/Workman is not entitled to any relief. No Costs.

10. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 22nd October, 2003.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the I Party/Workman : WW1 Sri R. Balasubramanian

For the II Party/
Management : MW1 Sri V. Parthasarathy,
MW2 Sri V. Jayapal

Documents Marked :—

For the I Party/Workman :—

| Ex. No. | Date | Description |
|---------|----------|---|
| W1 | 17-03-93 | Xerox copy of the show cause notice issued to Petitioner. |

| | | |
|------|----------|---|
| W 2 | 01-04-93 | Xerox copy of the reply submitted by Petitioner to show cause notice. |
| W 3 | 04-10-93 | Xerox copy of the order of suspension issued to Petitioner. |
| W 4 | 27-01-94 | Office order of the Dy. General Manager appointing in Enquiry Officer. |
| W 5 | 10-02-94 | Notice of hearing issued by Enquiry Officer to Petitioner. |
| W 6 | 04-03-94 | Notice of hearing issued to Petitioner by the Enquiry Officer. |
| W 7 | 10-05-94 | Xerox copy of the memo issued by the Deputy General Manager to the Petitioner. |
| W 8 | 17-05-94 | Xerox copy of the reply submitted by Petitioner to the 2nd show cause notice. |
| W 9 | 30-03-95 | Order of termination passed by Group General Manager against the Petitioner. |
| W 10 | 15-02-94 | Xerox copy of the letter from Petitioner to Enquiry Officer. |
| W 11 | Nil | Xerox copy of the certificate issued by Vallam police in respect of the Petitioner. |

For the II Party/Management :—

| Ex. No. | Date | Description |
|---------|----------|--|
| M1 | 08-01-93 | Xerox copy of the representation submitted by Petitioner. |
| M 2 | 10-02-94 | Notice of hearing issued by Enquiry Officer to Petitioner. |
| M 3 | 15-02-94 | Daily order sheet in respect of preliminary hearing held against the Petitioner. |
| M 4 | 04-03-94 | Notice of hearing issued by Enquiry Officer to Petitioner. |
| M 5 | 11-03-94 | Disciplinary proceedings. |
| M 6 | 23-03-94 | Enquiry report against the Petitioner. |
| M 7 | 08-01-93 | Statement submitted by Petitioner to Senior Security Officer. |
| M 8 | 03-03-93 | Letter from the Petitioner to Senior Security Officer. |

नई दिल्ली, 25 नवम्बर, 2003

का.आ. 3428.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी एम पी डी आई एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II, धनबाद के पंचाट (संदर्भ संख्या 50/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[सं. एल.-20012/247/90-आई. आर. (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 25th November, 2003

S.O. 3428.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 50/91) of the Central Government Industrial Tribunal/Labour Court II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CMPDIL and their workman, which was received by the Central Government on 21-11-2003.

[No. L-20012/247/90-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of a reference U/S. 10(1)(d)(2A) of
Industrial Disputes Act, 1947.

REFERENCE NO. 50 OF 1991.

PARTIES:

Employers in relation to the management of Central
Mine Planning and Design Institute Ltd., Gondwana
Place, Kanke Road, Ranchi.

AND

Their Workmen.

PRESENT:

SHRI B. BISWAS, Presiding Officer

APPEARANCES:

For the Employers : Shri A.K. Mishra,
Personnel Manager.

For the Workmen : None.

State : Jharkhand.

Industry : Coal

Dated, the 11th November, 2003.

AWARD

By Order No. L-20012/247/90-I.R.(C-I) dated 5-2-1991 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-

section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of Central Mine Planning and Design Institute Limited Management in not regularising S/Shri Raj Kumar Verma, Brinda Prasad Singh and Umesh Mahato as Generator Operator in Category-V w.e.f. the respective date of their initial engagement viz. 5-7-82, 23-2-82 and 2-8-83 with all consequential benefits is justified? If not to what relief these workmen are entitled?”

2. The case of the concerned workmen according to the written statement submitted by the sponsoring union on their behalf, in brief, is as follows :

It has been submitted by the sponsoring union that Generator Operators at CMPDIL are permanent posts and are required to work in shifts. The management of CMPDIL installed generators of varying capacities, located at different locations and are operated in three shifts interchanging the operators. The concerned workmen were employed continuously from the initial date of employment as Generator Operators as per order of the management and for which they deserve wages in Category-V. They alleged that in spite of rendering services by the concerned workmen as Generator Operators the management illegally and arbitrarily placed them in Category-I with effect from 17-12-85 and thereby depriving them from claiming their legitimate relief. They submitted that by an order dated 1-4-1989 along with other workmen the concerned workmen were regularised in Category-I General Mazdoor with effect from 17-12-1985 depriving them of their honest service rendered from the respective date of initial appointment. They disclosed that by another order dated 18-4-1990 the management regularised the service of one workman, Md. Masmoon Khan in Category-II with immediate effect who, according to them, had been assisting the electricians. While the concerned workmen were deprived of getting their placement in Category-V in spite of their rendering services as Generator Operators they disclosed that if shift duty chart, overtime register and also overtime bills since 1982 are considered it will confirm that the concerned workmen were deputed to operate the generators and perform the duties similar to Generator Operators on the regular rolls of the management. They alleged that while Dinesh Prasad Singh and three others were placed in Category-V with effect from 1-7-1986 for rendering their services as Generator Operator the concerned workmen were ignored by the management illegally and arbitrarily. Accordingly they submitted petition before the management for considering the claim of the concerned workmen, but as the management ignored to give any honour to the said claim they raised industrial dispute for conciliation which ended in failure and ultimately the dispute has been referred to this Tribunal.

3. The management, on the contrary, after filing written statement-cum-rejoinder, have denied all the claims and allegations which the sponsoring union asserted in the written statement on behalf of the concerned workmen. They submitted that the concerned workmen were initially deployed as casual mazdoor and subsequently on completion of 240 days of attendance they were regularised as Category-I General Mazdoor with effect from 17-12-1985. They submitted that these concerned workmen were subsequently allowed the difference of wages of Electrical Helper—Category-II with effect from 18-4-1990 as they were deputed to assist the electricians. They disclosed that in order to examine the suitability of the person concerned for the post to which they were being paid difference of wages i.e. Category-II along with others, a Committee was constituted which recommended for placement of the said concerned workmen to the post of Electrical Helper in Category-II and accordingly the concerned workmen were placed as Electrical Helper in Category-II with effect from 5-2-1991. Accordingly the management submitted that the claim of the concerned workmen finds no basis and for which they are not entitled to get any relief.

Point to be decided :

4. "Whether the action of Central Mine Planning and Design Institute Limited Management in not regularising S/Shri Raj Kumar Verma, Brinda Prasad Singh and Umesh Mahato as Generator Operator in Category-V w.e.f. the respective date of their initial engagement viz. 5-7-1982, 23-2-1982 and 2-8-1983 with all consequential benefits is justified? If not to what relief these workmen are entitled?"

Finding with reasons :

5. It transpires from the record that the concerned workmen in order to substantiate their claim did not consider necessary to adduce any evidence though sufficient opportunities were given to them. In view of the facts and circumstances the management also declined to adduce any evidence. Therefore, considering the facts disclosed in the pleadings of both sides it is to be taken into consideration whether the claim of the concerned workmen stands on substantial footing and whether they are entitled to get any relief or not.

It is the contention of the sponsoring union that the management installed generators of different capacities located at different locations for operation. They disclosed that the said generators used to be operated in three shifts interchanging the duties of the operators. It is their contention that the concerned workmen were deputed to work as operators of the generators in question by the management with effect from 5-7-1982, 23-8-1982 and 2-8-1983 respectively. They submitted that operators are required to be placed in Category-V. It is their allegations that inspite of rendering services by these workmen as

Generator Operators being deputed by the management they were deprived to enjoy the scale of wages of Category-V. They disclosed that instead the management illegally and arbitrarily paid them wages in Category-I. On the contrary, from the submission of the management it transpires that the concerned workmen initially were engaged as casual workmen and thereafter on completion of their work for 240 days they were regularised as Category-I General Mazdoor with effect from 17-12-1985. They further submitted that as the concerned workmen were deputed as Electrical Helper they paid them difference of wages of Category-II with effect from 18-12-1990. It is the contention of the management that thereafter as per recommendation of the Committee the concerned workmen were placed in the post of Electrical Helper Category-II with effect from 5-2-1991.

6. Now, considering the submissions of the sponsoring union as well as of the management I find two different pictures, when it is the claim of the sponsoring union that the concerned workmen were deputed as Generator Operators, the claim of the management is that they were deputed to work as Electrical Helper in Category-II and for rendering their services as Electrical Helper they paid difference of wages of Category-II to them till they were regularised with effect from 5-2-1991. The services of the Generator Operators and the services of the Electrical helpers are quite different and have no bearing to each other, as when the post of Generator Operator comes in Category-V the post of Electrical Helper comes in Category-II. There is no dispute to hold that the concerned workmen are the workmen of the management. Accordingly the onus shifts on the sponsoring union to establish that since the date of their appointment the management deputed the concerned workman as Generator Operator. Until and unless this fact is established there is no scope to uphold such contention. It is seen that the concerned workmen are posted in Category-II as Electrical Helper. Therefore, there is wide difference in between the post of Category-II and Category-V. The sponsoring union cannot avoid their responsibility to establish what qualification the concerned workmen possessed which deserved them to operate the generators. It is clear that operation of generator not only requires skill and experience but also requires some qualification. Therefore, the concerned workmen cannot exonerate their responsibilities to establish that before they were deputed to work as Generator Operators they possessed sufficient skill, experience and qualification to operate the same. I find no hesitation to say that the concerned workmen in course of hearing have failed to submit an iota of evidence in order to substantiate their claim. Apart from experience, skill and qualification the concerned workmen cannot exonerate their responsibility to establish that they were deputed by the management to discharge their duties as Generator Operators and in that capacity they worked for years together. I also find no hesitation to say that inspite

of getting ample opportunities the concerned workmen as well as the sponsoring union failed to produce a scrap of paper in support of that claim.

7. Facts disclosed in the pleadings cannot be considered as substantive piece of evidence until and unless it is substantiated by the material evidence either oral or documentary. It is the claim of the concerned workmen, according to their pleadings, that they were deputed by the management to discharge their duties as Generator Operators. Therefore onus rests on the concerned workmen to substantiate such claim. I have already discussed above that the concerned workmen inspite of getting ample opportunities have failed to produce any material documents to show that they were deputed to discharge their duties as Generator Operators. Therefore, relying on the facts discussed in the pleadings there is no scope at all to uphold their contention. Accordingly, as the concerned workmen have failed to substantiate their claim they are not entitled to get any relief in view of their prayer.

8. In the result, the following award is rendered. The action of Central Mine Planning and Design Institute Limited in not regularising S/Shri Raj Kumar Verma, Brinda Prasad Singh and Umesh Mahato as Generator Operators in Category-V with effect from the respective date of their initial engagement viz. 5-7-1982, 23-2-1982 and 2-8-1983 with all consequential benefits is justified and the concerned workmen are not entitled to any relief.

In the circumstances of the case, there would be no order as to cost.

B. BISWAS, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2003

का.आ. 3429.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा० को० को० लि० के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाट (संदर्भ संख्या 151/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[सं. एल. 20012/291/97-आई. आर. (सी.-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 25th November, 2003

S.O. 3429.—In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 151/98) of the Central Government Industrial Tribunal/Labour Court, II-Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 21-11-2003.

[No. L-20012/291/97-IR (C-I)]

S. S. GUPTA, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of Industrial Dispute under Section
10(1)(d) of the I. D. Act, 1947.

REFERENCE NO. 151 OF 1998

PARTIES:

Employers in relation to the management of Chasnalla
colliery of M/s. B. C. C. L. and their workman.

APPEARANCES:

On behalf of the workman : None

On behalf of the employers : Mr. D. K. Verma,
Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad the 10th November, 2003.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/291/97—IR(C-I) dated, the 28th May, 1998.

SCHEDULE

“Whether the demand of the Union to refer Sh. Arjun Shyamal P. No. 90809, Miner Loader of Chasnalla Colliery to the age determination committee for assessment/reassessment of his age is justified? If so, whether the workman is entitled to be referred to A.D.C. in light of implementation Instruction 76 JBCCI?”

2. The case of the concerned workmen according to the Written Statement submitted by the sponsoring Union on his behalf in brief is as follows :—

The sponsoring union submitted that after employment of the concerned workman by the management at Chasnalls colliery I.D. card was issued to him but in the said identity card no date of birth was recorded. Accordingly in support of his claim relating to his date of birth he intended to rely on C.M.P. F. record. The concerned workman also submitted relevant paper relating to this date of birth but the management without showing any reason refused to accept the same. Even the management did not consider necessary to send him before age determination committee for determination of his age. On the contrary they arbitrarily, illegally and violating the principles of natural justice superannuated him prematurely. Accordingly through the sponsoring union raised an

industrial dispute for consideration which ultimately resulted reference to this Tribunal for adjudication.

Concerned workman accordingly submitted his prayer to pass award directing the management to reassess his age by the age determination committee.

2. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegation which the sponsoring Union asserted in the written statement submitted on behalf of the concerned workman.

They submitted that the concerned workman originally was a contractors worker at Chasnalla colliery and in the year 1973 his services was departmentalisation by the management and is that time his age was assessed by the colliery medical officer as 37 years and accordingly his date of birth in his service record was recorded as 1-3-37 and the workman concerned also accepted the same.

They submitted that the concerned workman attained his age of 60 years on 31-3-97 and accordingly he was superannuated from his service with effect from 1-4-97. They further submitted that before superannuation of the concerned workman from his service, notice to that effect was issued to him on 27-8-96 intimating him the date of his superannuation. They disclosed that on receiving the dispute said notice the concerned workman raised this industrial dispute and demanded assessment of his the age by age determination committee without any basis. Accordingly they submitted prayer to pass award rejecting the claim of the concerned workman.

3. The points to be decided in this reference are:—

“Whether the demand of the Union to refer Sh. Arjun Shyamal P. No. 90809, Miner Loader of Chasnalla Colliery to the age determination Committee for assessment/reassessment of his age is justified? If so, whether the workman is entitled to be referred to A.D.C. in light of implementation Instruction 76 of JBCCI?”

4. Considering the facts disclosed in the pleadings of both sides I find no dispute to hold that the concerned workman was a workman at Chasnalla colliery under the management. It is also admitted fact that the concerned workman superannuated from his service with effect from 1-4-97. It is the contention of the management that originally the concerned workman was a contractors worker and in the year 1979 he was departmentalised by the management as of their worker. They disclosed that at that relevant time he was sent to colliery medical officer for assessment of his age and after medical examination the said colliery medical officer assessed his age as 37 years as on 1973 and accordingly his date of birth recorded as 1-3-1937 in his service record. They submitted that the concerned workman accepted his assessment of age as 37 years by the colliery medical officer and during his entire service carrier he did not raise any dispute to that effect, it

has been further submitted by the management that the concerned workman without any sufficient reason raised the industrial dispute for reassessment of his age by the age determination committee as soon as he received the notice relating to his date of superannuation from his service.

5. On the contrary it has been submitted by the workman that after getting his employment management issued identity card to him but in the said identity card no date of birth was recorded. He intended to rely on the CMPF record in support of his age but the management did not consider the same. Even he intended to rely on paper relating to his date of birth but that too was not considered by the management. It is seen from the record that the concerned workman raised the industrial dispute when he received the notice of his superannuation issued by the management dt. 27.8.96. It is therefore, clear that the concerned workman kept himself silent for long years during the period of his employment. He raised this industrial dispute actually at the fag/end of his service.

6. It is his specific contention that management, illegally arbitrarily violating the principle of natural justice superannuated him from service long before attaining his age of 60 years. In view of such claim onus rests on the concerned workman to substantiate his claim. The record shows that inspite of giving opportunity the concerned workman did not consider necessary to adduce any evidence. He relied on the identity card and C.M.P.F. record in support of his claim but inspite of such reliance he did not consider necessary to produce the said two documents. Had that been so there was scope to consider the genuinity of his claim. It is the contention of the concerned workman that he intended to submit papers to the management in support of claim relating to his date of birth but that too he failed to submit before this Tribunal in course of hearing. Accordingly, there is no scope to uphold the contention of the concerned workman. On the contrary management submitted categorically that at the time of his employment the concerned workman was placed before colliery medical officer for assessment of his age as he failed to produce any relevant document relating to his date of birth. The colliery officer after medical examination assessed his age as 37 years which was duly recorded in his service record, and the same was duly accepted by him. As per JBCCI Circular No. 76 assessment of the age of the workman is to be determined by the Medical Officer of the management at the time of his employment if the said workman fails to produce any relevant paper in support of his date of birth. There is reason to believe that management in compliance to the instruction given in JBCCI circular No. 76 assessed the age of the concerned workman at the time of his employment. It is not the case of concerned workman that he was not sent to the colliery medical officer for assessment of his age. Accordingly, there is no scope to say that management did not follow the instruction of JBCCI circular No. 76.

7. It is the contention of the workman that no date of birth was recorded in the identity card issued to him by the management after his employment. As the concerned workman has failed to produce the identity card there is no scope to ascertain the veracity of his claim. Even if the contention of the concerned workman is taken into consideration the question which will crop up is why he is instead of highlighting this fact remained silent till receipt of the notice of his superannuation. No satisfactory explanation is also forthcoming why the concerned workman did not raise dispute over recording his wrong age at the early stage of his superannuation. It is seen that the concerned workman just raising industrial dispute has finished his duty. He did not consider necessary to adduce evidence either oral or documentary with a view to substantiate the claim. Facts disclosed in the pleading cannot be considered as material evidence for upholding his prayer, until and unless the same is supported by cogent evidence.

8. After careful consideration of all the facts and circumstances I find no hesitation to say that the concerned workman has lamentably failed to establish his claim and for which there is no scope to say that management have illegally arbitrarily and violating the principles of natural justice superannuated him from service prematurely. Accordingly the concerned workman is not entitled to get any relief in view of his paper. In the result, the following award is rendered:—

“Whether the demand of the Union to refer Sh. Arjun Shyamal P. No. 90809, Miner Loader of Chasnalla Colliery to the age determination Committee for assessment/reassessment of his age is not justified? Consequently the concerned workman is not entitled to be referred to A.D.C. in light of implementation Instruction No. 76 of JBCCI?”

B. BISWAS, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2003

का.आ. 3430.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण II, धनबाद के पंचाट (संदर्भ संख्या 30/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[सं. एल. 20012/501/97-आई. आर. (सी. I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 25th November, 2003

S.O. 3430.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 30/99) of the Central Government Industrial Tribunal/Labour

Court, II-Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 21-11-2003.

[No. L-20012/501/97-IR (C-I)]

S.S. GUPTA, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I. D. Act, 1947

REFERENCE NO. 30 OF 1999

PARTIES:

Employers in relation to the management of Nichitpur colliery of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the workman : None

On behalf of the employers : Shri D.K. Verma,
Advocate.

State : Jharkhand. : Industry : Coal

Dated, Dhanbad the 7th November, 2003

ORDER

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No-L-20012/501/97-IR(C-I), dated, the 8th January, 1999.

SCHEDULE

“Whether the action of the management of Nichitpur Colliery of M/s. BCCL in dismissing Smt. Koili Bhuni W/Loader w.e.f. 5-5-89 from the service of the company is justified?” If not, to what relief the workman is entitled?”

2. In this reference neither the concerned workman nor his representative appeared. However, though the management side appeared through their learned Advocate did not file their W.S. It is seen from the record that the instant reference was received by this Tribunal on 21-1-1999 and since then it is pending for disposal. As the concerned workman failed to appear before this Tribunal, registered notices were issued to the workman side but in spite of the issuance of notices they failed to appear before this Tribunal. They also did not even respond to the notices issued by this Tribunal. In natural course the question will arise what will be the fate of the reference made by the Ministry for its disposal. The reference is

made on the basis of the dispute raised by the concerned workman/Union. Naturally responsibility rests with the concerned workman/union to assist the Court to dispose of the reference on merit. In view of the decision of the Hon'ble Apex court reported in 2002(94) FLR 624 it will not be just and proper to pass 'No dispute'. Award when both the parties remain absent. There is also no scope to answer the reference on merit in absence of any W.S and available documents. There is no dispute to hold that when any reference is made it is expected to be disposed on merit but when the parties do not take any step or do not consider even to file written statement documents such expectation to dispose of the reference on merit comes to an end. It is not expected that for years together the court will pursue the matter suo moto with the expectations for appearance of the workman inspite of issuance of registered notices. As per I.D. Act the workman excepting under provisions of Section 2A is debarred from raising any industrial dispute. The disputes are mainly raised by the Union for their workman. These unions inspite of receiving notices do not care to appear before the court for the interest of the workman and as a result they have been deprived of getting any justice. Until and unless the attitude of the union is changed I Consider that this uncalled for situation will persist. Definitely it is the duty of the Court to dispose of the reference on merit but it depends on the cooperation of both sides. Here the record will clearly expose that sufficient opportunities had been given to the workman/union but, yielded no result. This attitude shows clearly that the workman side is not interested to proceed with the hearing of the case for disposal on merit.

Under the facts and circumstances, I also do not find any sufficient reason to drag on the case for an indefinite period. Accordingly as there is no scope to dispose of the reference in question on merit, the same is closed.

B.BISWAS, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2003

का.आ. 3431.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. एस. पी. डी. आई. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण II, धनबाद के पंचाट (संदर्भ संख्या 242/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[सं. एल. 20012/27/99-आई. आर. (सी. I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 25th November, 2003

S.O. 3431.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 242/99)

of the Central Government Industrial Tribunal/Labour Court, II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CMPDIL and their workman, which was received by the Central Government on 21-11-2003.

[No. L-20012/27/99-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD.

PRESENT:

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 242 of 1999

PARTIES:

Employers in relation to the management of C.M.P.D.I.L. and their workman.

APPEARANCES:

On behalf of the Workman : Mr. Patras Bage, the concerned workman

On behalf of the employers : Mr. A. K. Mishra, Personnel Officer

State : Jharkhand

Industry : Mine Planning

Dated, Dhanbad, the 7th November, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred of them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/27/99-IR (C-I), dated, the 4th June, 1999.

SCHEDULE

"Kya union ki mang ki Shri Patrash Bage ko driver key pad par Niyamita kiya jay, kyu ki unsey choudidar ke pad par Niyukt Rahatey huya vi nirantar Driver ka karya liy jata tha, uchit evam naya sangat hai? yadi ha to karmkar kis rahat key patra hai tatha kis tarikh sey?"

2. In course of hearing of the instant reference case both the parties, appeared. The concerned workman by filing a petition submitted his prayer to pass a 'No dispute' award in the instant reference case, as he is not interested to proceed further. No objection raised on the side of the management. Heard both sides, also perused the petition.

Since the concerned workman involved in the dispute is not interested to proceed with the hearing of this case, there is no reason to drag on the same. Accordingly, a 'No dispute' Award is rendered and the instant reference is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2003

का.अ. 3432.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी०सी०एल० के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II धनबाद के पंचाट (संदर्भ संख्या 11/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[सं. एल. 20012/94/92-आई. आर. (सी. I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 25th November, 2003

S.O. 3432.—In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/93) of the Central Government Industrial Tribunal/Labour Court, II-Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CCL and their workman, which was received by the Central Government on 21-11-2003.

[No. L-20012/94/92-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of a reference under Section 10(1)(d) (2A) of the Industrial Disputes Act, 1947

REFERENCE NO. 11 OF 1993

PARTIES:

Employers in relation to the management of M/s. Central Coal fields Ltd. Darbhanga House, Ranchi

AND

Their Workmen

PRESENT:

Shri B. Biswas, Presiding Officer

APPEARANCES:

For the Employers : Shri D.K. Verma, Advocate

For the Workman/Union : None

State : Jharkhand. Industry : Coal

Dated, the Dhanbad 11th November, 2003

AWARD

By Order No. L. 20012(94)/92-IR(Coal-I) dated the 23rd February, 1993 the Central Government in the Ministry of Labour has, in exercise of the powers concerned by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the Chief of Security of M/s. Central Coalfields Ltd. Darbhanga House, Ranchi is justified in demoting Sri. P.Roy, Senior Wireless Operator Gr. I to Senior Wireless Operator Gr. II vide his Memo No. COS/HF/VHF/Estab./90/4819-25 dated 7-11-90 for representing to Director (Personnel) and to Addl. Chief Security Officer ? If not, to what relief the workman is entitled?"

2. The case of the concerned workman, according to the written statement submitted by the sponsoring union on his behalf, in brief, is as follows.

The sponsoring union submitted that the concerned workman was Wireless Operator, Grade-I under the management. They submitted that there was a general strike in the Coal Industry in March, 1988 wherein the concerned workman along with others participated. Immediately after calling off the said strike, the General Manager (Adm.) issued an order being No. GM(A)/CCL/Misc/ C/ 88/263 dated 16-3-88 placing the V.H.F and Wireless section under the Administrative charge of the Chief Security Officer. Accordingly the concerned workman made a representation dated 1-02-1990 to the Director (Personnel) setting out the grievances with a prayer that the said order be made null and void, but no response to that effect came on the part of the management. The concerned workman made another representation on 13-02-90 addressed to the Addl. Chief Security Officer seeking guideline but to that effect also there was no response. They submitted that on 21-05-1990 a private message duly signed by the Private Secretary to the Chief of Security was brought to the concerned workman for its transmission through Wireless system to the Senior Security Officer (B & K). Kargali. As under the existing rules no private message can be transmitted over the Wireless system, the concerned workman refused to transmit the same and returned back the message with the remark "Private Message." They submitted that in view of the standing instruction the Wireless system is intended only for official purpose and should not in any case be made available to the officers or staff for conveying message of personal nature or relating to their personal problem. In spite of knowing the norms the Chief of Security abused his official position to misuse the Wireless System for transmitting the personal and private message. With a view to take retaliation against the concerned workman the Chief of Security, Shri U.N.

Singh issued a chargesheet to the concerned workman with the allegation of committing misconduct for submitting his representation dated 1-02-1990 directly addressed to the Director (Personnel) and the representation dated 13-02-1990 addressed to Shri K.D Neogy, Addl. Chief Security Officer and also issued a suspension order vide No. CCL/Wireless/Estt./90/2222-29 dated 22-05-1990 placing him under suspension with effect from 23-5-1990 and also asked him to submit his reply to the chargesheet why disciplinary action should not be taken against him. They submitted that the Certified Standing Orders (Coal Mines) N.C.D.C. Ltd. was certified exclusively for the mines of N.C.D.C. as "applicable to all mines situated in the state of Bihar, Orissa, Madhya Pradesh and Maharashtra belonging to the National Development Corporation Ltd." As per Standing Order No. 1(2) the said Standing Order apply only to workmen employed in any colliery or mine of N.C.D.C. including establishment or sections located within the premises of a mine. They submitted that the concerned workman submitted his reply to the chargesheet but being dissatisfied with the said reply the Disciplinary Authority issued order to hold enquiry against the concerned workman. They alleged that the Enquiry Officer holding a purported enquiry submitted report finding the concerned workman guilty to the charge of misconduct and in view of the report submitted by the Enquiry Officer the Chief of Security by an order No. COS/HF/VHF/Estb./90/4819-25 dated 7-11-1990 demoted him to Grade-II Wireless Operator from Grade-I Wireless Operator. Accordingly, the concerned workman through the sponsoring union raised an industrial dispute for conciliation which ultimately resulted reference to this Tribunal for adjudication. They submitted that the punishment imposed by order dated 18/22-7-1992 as a consequence of the Chargesheet dated 22-05-1990 is incompetent, untenable, illegal and void for which the same is liable to be set aside.

3. The management, on the contrary, after filing written statement have denied all the claims and allegations which the sponsoring union asserted in the written statement on behalf of the concerned workman. They submitted that after the purported dispute was raised by the sponsoring union a drastic change was made in regard to the matter referred to this Tribunal. The change is that the workman concerned, P. Roy, submitted an appeal to the higher management against the punishment of demotion awarded to him, his appeal was considered and the punishment was drastically reduced to a very nominal and a minor punishment of confirmation of suspension of Shri Roy for a period of 10 days was passed by an order of the Director (Personnel) and Office Order No. 2823/Personal/3350/57 dated 18/22-7-92 was accordingly issued and implemented. Shri Roy was also paid full wages for the rest of the period of suspension except for the first ten days of suspension from 23-5-1990. Simultaneously with the issuance of charge-sheet to him being No. COS/

Wireless/Estt./90/2222-29 dated 22-5-90 and his remaining under suspension till the imposition of punishment of demotion to the post of Senior Wireless Operator Grade-II vide Memo No. COS/HF/VHF/Estt./90/4819-25 dated 7-11-1990 was recalled and he was put back on duty. During the period of suspension he was paid subsistence allowance equivalent to 50% of his wages and as a result of the aforesaid order dated 18/22-7-1992 based on the decision of the Appellate Authority/Director (Personnel) he was paid full wages for the period of suspension except the first ten days. They further submitted that in view of above development the dispute as referred to this Tribunal does not any longer survive, specially as under Sec. 10(4) of the Industrial Disputes Act, 1947. They further submitted that as on the date of reference of the present case to this Tribunal no dispute, such as, the one referred to in the terms of reference was in existence. They also submitted that after issuance of the aforesaid order dated 18/22-7-1992 the concerned workman did not make any further representation or raise any other dispute. Accordingly, they submitted their prayer to pass order rejecting the claim of the concerned workman.

4. POINTS TO BE DECIDED:

"Whether the action of the Chief of Security of M/s. Central Coalfields Ltd. Darbhanga House, Ranchi is justified in demoting Shri P. Roy, Senior Wireless Operator Gr. I to Senior Wireless Operator Gr. II vide his Memo No. COS/HF/VHF/Estab./90/4819-25 dated 7-11-90 for representing to Director (Personnel) and to Addl. Chief Security Officer? If not, to what relief the workman is entitled?"

5. FINDING WITH REASONS:

It transpires from the record that neither the concerned workman nor the management considered necessary to adduce any evidence in order to substantiate their claim. Considering the facts discussed in the pleadings of both sides I find no dispute to hold that the concerned workman was placed under order of suspension from 23-5-1990 in view of the Charge-sheet-cum-suspension order issued by the management dated 22-5-90. It is seen that the management started domestic enquiry against the concerned workman through Enquiry Officer being dissatisfied with the reply given by him. It further transpires that the concerned workman in view of the enquiry report submitted by the Enquiry Officer was found guilty and order of demotion to Wireless Operator Grade-II was issued against him. It is admitted fact that against the said arbitrary order passed by the Disciplinary Authority the concerned workman made an Appeal before the Appellate Authority. The Appellate Authority after considering the appeal made by the concerned workman reviewed the order of punishment and passed an order to that effect vide Order No. 2823/Personal/3350-57 dated 18/22-7-92. The order of the Appellate Authority is as follows:

of the Appellate Authority is as follows :

"Shri P. Roy, Sr. W.O. Gr. I was issued a Charge-sheet vide No. COS/Wireless/Estb./90/2222-29 dated 22nd May, 1990. His explanation to the above charge-sheet being not found satisfactory, an Enquiry Committee was constituted vide Office Order No. COS/Wireless/Estb./90/2493-303 dated 13-6-90 to enquire into the charges as levelled against Sri. P. Roy. On the basis of the Enquiry Committee Report thereby proving the charges levelled against Shri Roy to be true and correct, the Disciplinary Authority awarded him the punishment of demotion to the next lower grade.

Being aggrieved with the order of punishment awarded by the Disciplinary Authority, Shri Roy preferred an appeal under the provisions of Certified Standing Orders under which his conduct and Discipline is governed before the Appellate Authority.

The Appellate Authority after going through the facts mentioned in his appeal as well as the materials on record during the enquiry proceedings and the report of the enquiry, has been pleased to review the order of punishment in respect of Shri P. Roy from demotion to the next lower grade to confirmation of 10 days suspension.

Accordingly, the order of punishment awarded to Shri Roy vide Office Order No. COS/HF/VHF/Estb./90/4819-25 dated 7-11-90 is hereby rescinded and Shri Roy is awarded confirmation of suspension for a period of 10 days as punishment."

It is seen that the Appellate Authority setting aside the said order of demotion only awarded confirmation of suspension for a period of 10 days as punishment. It is specific claim of the management that after modifying the said punishment the dues have been paid to the concerned workman which he was entitled to get. In para 26 of the written statement the concerned workman admitted this fact. However, he made an allegation that the management did not give effect to that order till the date of filing written statement by the sponsoring union. The written statement was signed by the representative of the concerned workman on 12-4-93. It is seen from the written statement that the sponsoring union raised an industrial dispute for conciliation after the order of punishment passed by the Disciplinary Authority, but before preferring appeal by him to the Appellate Authority. The Ministry referred this dispute on 23-2-93 before this Tribunal for adjudication with the reference as mentioned above. The Appellate Authority rescinded the order of punishment issued by the Disciplinary Authority against the workman by an order dated 18/22-7-92 i.e. the said punishment was set aside by the Appellate Authority before referring this case to this Tribunal by the Ministry dated 23-2-1993. When

the said order of the Disciplinary Authority has been rescinded there is no scope to draw any conclusion that the said punishment is still in existence. Section 10(4) of the Industrial Disputes Act speaks that where in an order referring an industrial dispute to a Labour Court, Tribunal or National Tribunal under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, the Labour Court, or Tribunal or National Tribunal, as the case may be, shall confine its adjudication to those points and matters incidental thereto. Therefore, according to Section 10(4) the Tribunal shall confine to answer the reference in question and also matters incidental thereto. As the dispute as per reference has already been disposed of by order of the Appellate Authority which has duly been admitted by the concerned workman in para 26 of his written statement there is no scope to adjudicate the reference in question, only the Court is liable to adjudicate the matters incidental thereto.

6. It is seen that by revised order of the Appellate Authority the concerned workman was awarded confirmation of punishment for a period of ten days. It is the contention of the management that after passing the said order the concerned workman did not make any further representation or raised any further dispute. As regards matters incidental thereto, it is to be looked into whether that punishment order for ten days was just, proper or not. It has already been mentioned, according to the submission of the management, that the concerned workman neither submitted any representation nor raised any further dispute over suspension order for ten days. No where from the written statement submitted by the concerned workman I find any whisper to that effect though in para 26 of the written statement the concerned workman admitted about setting aside the order of punishment inflicted on him by the Disciplinary Authority. Record shows that ample opportunity was given to the concerned workman to substantiate his claim, but he did not consider necessary to do so. There is sufficient reason to believe that as the order of Disciplinary Authority in the matter of punishment was set aside by the Appellate Authority he did not consider necessary to take any further step. Accordingly, there is no scope at all to judge that the Appellate Authority illegally or arbitrarily confirmed the suspension of the concerned workman for a period of ten days as punishment.

7. Accordingly, the concerned workman is not entitled to get any relief in respect of the matter incidental to the reference in question. As the dispute in view of the reference made by the Ministry has already been disposed of by order dated 18/22-7-92 issued by the Appellate Authority there is no scope to answer this reference.

In view of the observation made above the reference is answered.

B. BISWAS, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2003

का.आ. 3433.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टिस्को के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाट (संदर्भ संख्या 148/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[सं. एल. 20012/391/95-आई. आर. (सी. I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 25th November, 2003

S.O. 3433.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 148/96) of the Central Government Industrial Tribunal/Labour Court. II-Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tisco Ltd. and their workman, which was received by the Central Government on 21-11-2003.

[No. L-20012/391/95-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, AT DHANBAD

PRESENT:

Shri B. Biswas, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of I. D. Act, 1947.

REFERENCE NO. 148 OF 1996

PARTIES:

Employers in relation to the management of
6 & 7 Pits Jamadoba Colliery of
M/s. Tisco. Ltd. and their workman

APPEARANCES:

On behalf of the workman : None.

On behalf of the employers : Mr. D. K. Verma,
Advocate.

State : Jharkhand : Industry : Coal.

Dated, the 10th November, 2003.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of

the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/391/95-IR (Coal-I), dated, the 22-11-96/26-11-96.

SCHEDULE

"Whether the action of the management of 6 & 7 Pits colliery of M/s. Tisco. in suspending Shri Noor Mohammad for 5 days from 25-1-1993 is legal and justified? If not, to what relief is the said workman entitled?"

2. The case of the concerned workman according to the Written statement submitted on his behalf in brief is as follows :—

It has been submitted that the concerned workman who is a miner under the management and posted at 6 & 7 Pits colliery went to his home on sanctioned leave for 12 days with effect from 3-7-92. It is submitted that as the concerned workman fell ill he could not come back to resume his duty after expiry of the said leave period and to that effect he intimated the management supported by medical certificate as and requested them to sanction sick leave. The concerned workman thereafter was declared medically fit by the doctor on 3-8-92 but he could not start from his home as the train was cancelled due to accident. However, he came to his place of duty on 6-8-92 and resumed his duty. It has been alleged that management on 25-8-92 issued a chargesheet to the concerned workman for committing misconduct under clause 19(6) of the certified standing order. The concerned workman though submitted his reply to the chargesheet management without accepting the same started domestic enquiry against him illegally and arbitrarily. Even the enquiry officer neither allowed him to cross-examine the management's witnesses nor consider the medical certificate which he submitted in support of his ailment. The enquiry officer thereafter submitted a perverse report holding him guilty to the charges brought against him and thereafter issued an order of suspension for a period of five days with effect from 25-1-93 illegally, arbitrarily and violating the principle of natural justice and for which he raised an industrial dispute before the ALC(C), Dhanbad for conciliation which ultimately resulted reference to this Tribunal.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the concerned workman asserted in the written statement. They submitted that the concerned workman was engaged as miner with effect from 27-7-61 at 6 & 7 Pits colliery. He was granted 12 days leave from 3-7-92 to 16-7-92 and was duty bound to report for his duty on 17-9-92 but without reporting for duty he started himself absenting from duty without permission and also without giving any intimation to the management. They submitted that ultimately on 6-8-92 he reported for his duty along with a medical certificate dt. 3-8-92 stating that he was sick during the period of his absence. They submitted that as the management was not satisfied with

the reason assigned by the concerned workman for his unauthorised absence issued chargesheet bearing No. 72/92 dt. 17/18-8-92 for committing misconduct under clause 19(16) of the Company's certified standing order. Thereafter management issued order for holding domestic enquiry against the concerned workman and appointed enquiry officer to that effect. They submitted that during enquiry proceeding full opportunity was given to the concerned workman to defend his case by examining his own witness and also to cross-examine the management's witness. He also at that time did not raise any dispute against the enquiry officer or the management representative or the procedure of enquiry adopted by the enquiry officer. They submitted that in course of enquiry proceeding inspite of getting ample opportunities he failed to produce a single prescription issued by doctor who treated him or a single cash memo showing purchase of medicine as per prescription. He also has failed to produce any satisfactory evidence about his ailment excepting the medical certificate. Accordingly, considering report of the enquiry officer and also considering all other material aspects the management imposed him penalty of suspension for 5 days only giving benefit of doubt to the concerned workman. They submitted that they did not pass that order of suspension illegally, arbitrarily and violating the principle of natural justice and for which the concerned workman is not entitled to get any relief, according to his prayer.

4. The points to be decided in this reference are :—

"Whether the action of the management of 6 & 7 Pits colliery of M/s. Tisco. in suspending Shri Noor Mohammad for 5 days from 25-1-993 is legal and justified? If not, to what relief is the said workman entitled?"

FINDINGS WITH REASONS

5. It transpires from the record that before taking up hearing on merit witness on the part of the management was examined to consider if the domestic enquiry held against the concerned workman was fair, proper and in accordance with the principle of natural justice. It is seen from the record that inspite of giving sufficient opportunities neither the concerned workman examined himself as witness nor he considered necessary to examine any other witness, on his behalf. The record further shows that order on preliminary point was passed vide order No. 33 dt. 2-9-2003 and it was observed that domestic enquiry held against the concerned workman was fair, proper and in accordance with the principle of natural justice.

6. Here the point for consideration is whether the management have been able to substantiate the charge of misconduct brought against the concerned workman under clause 19(16) of the company's certified standing order. It

is also be taken into consideration if the concerned workman is entitled to get any relief under Section 11A of the I.D. Act in view of punishment imposed upon him by the management. Considering the evidence of MW-1 and also considering the facts disclosed in the pleadings of both sides there is no dispute to hold that the concerned workman was miner at 6 & 7 Pit colliery under the management. It is admitted that the concerned workman went to home on sanctioned leave for a period of 12 days with effect from 3-7-92 and he was supposed to join his duty on 17-7-92 i.e. he was allowed to enjoy leave upto 16-7-92. It is admitted fact that the concerned workman failed to join his duty on 17-7-92, i.e. after expiry of the sanctioned leave for 12 days. It is the contention of the concerned workman that during the period of his leave he fell sick and for which he could resume his duty on 17-7-92. He disclosed that he intimated this fact to the management. He further disclosed that he was declared medically fit by his attending doctor on 3-8-92 but he could not join his duty immediately thereafter as the train was cancelled due to an accident and for which he joined his duty on 6-8-92. At the time of his resuming duty he submitted an application along with medical certificate issued by the doctor wherein he specifically mentioned the reasons for his inability to join his duty on the schedule date. The said petition of the concerned workman during enquiry proceeding was marked as Ext. ME-11. Contents of the said petition has supported his claim relating to his inability to resume his duty. It is seen that as the management was not satisfied with the grounds of his absence from 17-7-92 to 5-8-92 issued chargesheet with the allegation of committing misconduct as per para 19(16) of the Company's certified standing order applicable to workmen Para 19(16) of the Certified Standing order speaks. "Any employee may be suspended, fined or dismissed without notice or any compensation in lieu of notice if he is found to be guilty of misconduct for continuous absence without permission and without satisfactory cause for more than 10 days". From the contention of the management it transpires that chargesheet for committing misconduct under para 19(16) was issued to the concerned workman for his remaining unauthorised absence for more than 10 days from 17-7-92. It is seen that the management decided to hold domestic enquiry against the concerned workman as the reply given by him was not satisfactory. The copy of the chargesheet during evidence of MW. 1 was marked as Ext. M-1. Considering the domestic enquiry proceeding papers marked as Ext. M-3 series I find no dispute to hold that the concerned workman fully participated in the same. From these papers I have failed to find out any material to show that the enquiry officer did not give him any opportunity to defend his case. Accordingly, the allegation which the concerned workman has made against the enquiry officer finds no basis at all.

7. Now it is to be looked into if the absence of the

concerned workman from duty with effect from 17-7-92 to 5-8-92 is to be considered as unauthorised absence which amounted to misconduct as per para 19(16) of the Certified Standing Order and whether the punishment imposed upon him was fair, proper and in accordance with the principle of natural justice.

8. It is the specific contention of the concerned workman that he was sick from 17-7-92 to 3-8-92 and for which he could not get scope to resume his duty on 17-7-92 i.e. on the expiry of his sanctioned leave and in support of his claim he relied on medical certificate which during enquiry proceeding was marked as Ext. ME-11. He disclosed that due to cancellation of train for an accident he could not resume his duty on 3-8-92 and for which he joined his duty on 6-8-92. Therefore, it is seen that ground of absence of the concerned workman appears to be two fold i.e. one part of his absence from 17-7-92 to 3-8-92 was due to his illness and the other part of his absence from 3-8-92 to 5-8-92 was due to dislocation of Railway traffic for the accident. It is admitted fact that for the 1st phase of his absence he submitted medical certificate in support of his proof but for the 2nd phase of his absence he has failed to produce any documentary evidence. This 2nd phase of his absence was for three days only. The enquiry report submitted by the enquiry officer was marked as Ext. M-4. In para 3, 4 & 5 of the enquiry report the officer observed as follows :—

"Para-3 From exhibit ME-II, it is evident that Sri Noor Md. had submitted an application along with medical certificate at the time of joining duty which was regretted.

Para-4 From exhibit ME-II, it is evident that Sri Noor Md. reported for duty on 6-8-92 while his medical certificate signifies that he was made fit on 3-8-92 and from ME-II, it is also evidence he has stated in his application at the time of joining that he could not reach the duty place in time as the train was cancelled due to accident but he has no evidence on record to prove the same.

Para-5 During the enquiry, Sri Noor Md. has stated that he could not report for duty in time as he was suffering from sickness but from exhibit ME-II it is evident that he could not report for duty in time due to train accident and both the statements are highly contradictory and is for from fact."

Considering the report of the enquiry officer I have failed to find out any findings relying on which there is scope to say that medical certificate which the concerned workman relied on was as manufactured one and for which he disbelieved the same before ignoring any medical certificate it was the bounden duty of the Enquiry Officer to assign his reason to that effect. From the papers of the enquiry proceeding, I have failed to find out any

observation to the effect that inspite of demand the concerned workman failed to produce any prescription or Cash Memo showing purchase of medicines as per prescription. The findings of the enquiry officer appears to be contradictory and he disbelieved the ground of his ailment relying on the second plea taken by the concerned workman. The enquiry officer nowhere in his report disbelieved the medical certificate submitted by the concerned workman with cogent reason. Accordingly, there is no scope to say that the concerned workman either procured the said certificate falsely or he manufactured the same.

9. It is fact that the concerned workman has failed to show any paper in support of his claim that he intimated the fact of his ailment immediately when he fell ill but for that reason there is no scope to disbelieve the medical certificate which was issued by his doctor under whose treatment he remained. As the management has failed to establish this fact there is no scope to say that the fact relating to his ailment should be disbelieved. Therefore, absence of the concerned workman for the period from 17-7-92 to 2-8-92 was due to suffering from ailment and for which there is no scope to say that he remained absent unauthorisedly. Considering the facts and circumstances it transpires that actually the concerned workman was on unauthorised absence for the period from 3-8-92 to 5-8-92 i.e. for a period of three days. Unauthorised absence for three days does not amount to misconduct as para 19(16) of the Certified Standing order and for which there is no scope to issue chargesheet.

10. Accordingly, after careful consideration of all the facts and circumstances I hold that the management have failed to establish the charge brought against the concerned workman for committing misconduct under para 19(16) of the certified standing order. Therefore, the penalty which was imposed upon the concerned workman is liable to be set aside, considering the facts and circumstances discussed above there is reason to believe that it was so done arbitrarily and violating the principle of natural justice.

In the result, the following award is rendered :—

"The action of the management of 6 & 7 Pits Colliery of M/s. TISCO. in suspending Shri Noor Mohammad for 5 days from 25-1-1993 is not legal and justified. Consequently the suspension order imposed upon him is set aside and he is entitled to get full wages during the period of his suspension to the date of withdrawal of his suspension order adjusting the subsistence allowance if paid to him."

The management is directed to implement the Award within three months from the date of publication of the Award in the Gazette of India in the light of the observation made above.

B. BISWAS, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2003

का.आ. 3434.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाद (संदर्भ संख्या 103/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[सं. एल. 20012/620/97-आई. आर. (सी. I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 25th November, 2003

S.O. 3434.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 103/98) of the Central Government Industrial Tribunal/Labour Court, II-Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 21-11-2003.

[No. L-20012/620/97-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, AT DHANBAD****PRESENT:**

Shri B. Biswas, Presiding Officer

In the Matter of on Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 103 OF 1998**PARTIES:**

Employers in relation to the management of
M/s. B.C.C.L's Nichitpur colliery and their workmen.

APPEARANCES:

On behalf of the Workman : Mr. R.K. Prasad,
President,
Bihar Shramik
Sangh.

On behalf of the employers : None.

State : Jharkhand.

Industry : Coal

Dated, the 11th November, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/620/97-I.R.(C-I) dated the 13th April, 1998.

SCHEDULE

"Whether the action of the management of Nichitpur Colliery of M/s. BCCL in dismissing Smt. Budhani Kamin, Ex-Wagoh Loader only on the ground of unauthorised absence with effect from 1-9-91 from the service of the company w.e.f. 29-10-92 is justified? If not, to what relief is the workmen concerned entitled?"

2. The case of the concerned workman according to Written statement submitted by the sponsoring union on her behalf, in brief, is as follows :—

The sponsoring union submitted that the concerned workman was a permanent miner loader at Nichitpur colliery. They alleged that on the allegation of committing misconduct the management dismissed her from service vide letter No. N/2092/92 dt. 29-10-92 without giving any opportunity to defend her case. They alleged that before dismissing her from service the management neither issued any chargesheet to her nor served any notice of domestic enquiry. Accordingly they alleged that the management illegally, arbitrarily and violating the principles of natural justice dismissed her from service and for which she raised an industrial dispute before the ALC (C) for conciliation which ultimately resulted reference to this tribunal for adjudication.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement on behalf of the concerned workman. Admitting the fact that the concerned workman was a permanent miner loader at Nichitpur colliery submitted that unauthorisedly she started herself absents from duty for more than 10 days since 1-9-91 She neither gave any information to the management disclosing the ground of her such unauthorised absence nor obtained any prior permission for enjoying such leave. Accordingly, charge-sheet vide No. 1639/92 dt. 24-8-92 was issued against the concerned workman under para 26-1-1 of the certified standing order. On the ground of committing misconduct for her unauthorised absence. They disclosed that, the concerned workman was not found at her local address the said chargesheet could not be served upon her. Accordingly the said chargesheet was sent to her at her home address on 24-8-92 by registered post with A/D but the same also was returned back with the comment of the Postal Peon "ESS NAM KA PATA NAHI CHELA" Consequent to that report of the Postal authority they published the said chargesheet in Hindu Daily Newspaper 'Awaz' along with the notice of enquiry. They submitted that even after publication of the said chargesheet and notice of enquiry in the said newspaper the concerned workman did not turn up before Enquiry officer at the time of enquiry. Even she did not consider to send any

information with regard to her non appearance before the Enquiry officer. In the circumstances the Enquiry officer held domestic enquiry against her *ex parte* and submitted report to the Disciplinary authority holding her guilty to the charges brought against her. The disciplinary authority thereafter, considering the report of the Enquiry officer as well as all other aspects dismissed the concerned workman from service vide order No. N/2092/92 dt. 29-10-92. Management alleged that previous to this incident the concerned workman was chargesheeted for committing misconduct on the ground of unauthorised absence of more than 10 days since 19-10-84 vide ref. No. N/P/717/87 dt. 25-5-87. In that case management took lenient view and released on giving due warning vide letter No. N/6654/87 dt 22-9-87 with a view to give her chance for future rectification of her conduct as she begged unqualified apology for committing misconduct. They alleged that the concerned workman has grown up her habit to commit such misconduct as of her wishes. Accordingly they submitted that they did not commit any illegality or impropriety in dismissing the concerned workman violating the principles of natural justice and for which she is not entitled to get any relief according to her prayer.

POINTS TO BE DECIDED

4. "Whether the action of the management of Nichitpur Colliery of M/s. BCCL in dismissing Smt. Budhani Kamin, Ex-Wagon Loader only on the ground of unauthorised absence with effect from 1-9-91 from the service of the company with effect from 29-10-92 is justified? If not, to what relief is the workmen concerned entitled?"

FINDING WITH REASONS

5. It appears from the record that as management in spite of giving opportunities have failed to take further step in the matter of final hearing of this case, the same was taken up for *ex parte* hearing. Considering the facts disclosed in the pleadings of both sides and also considering evidence of the concerned workman I find no dispute to hold that she was permanent miner loader at Nichitpur Colliery. It is the allegation of the concerned workman that management illegally arbitrarily and violating the principle of natural justice dismissed her from service.

6. On the contrary the management in their Written statement-cum-rejoinder disclosed that the concerned workman absented herself from duty for more than 10 days since 1-9-91 without giving any information to the management. She also did not obtain prior permission for her leave. As unauthorised absence beyond the period of 10 days amounts to misconduct as per para 26-1-1 of the certified Standing order. Chargesheet was issued to her vide No. 1639/92 dt. 24-8-92 and the same was sent to her local address. They submitted that in the local address as

the chargesheet could not be handed over to her the same was sent to her home address by registered post with A/D but the same also was returned back being not served with the comment of the postal Peon to the effect that "ESS NAM KA PATA NAHI CHALA". Accordingly, management published the said chargesheet along with notice of enquiry in the daily newspaper 'Awaz' but in spite of publication of the said notice of chargesheet the concerned workman did not appear in course of hearing of domestic enquiry proceeding and for which the Enquiry Officer conducted the hearing of domestic enquiry *ex parte* and submitted his report holding the concerned workman guilty to the charges. Disciplinary authority considering the said report and also considering all other aspects including her previous conduct dismissed her from service. They disclosed that previous to this charge on the ground of committing misconduct for unauthorised absence a chargesheet vide Ref. No. N/P/717/87 dt. 25-5-87 was issued to her. On the basis of the chargesheet a domestic enquiry also was held against him but at that time instead of inflicting punishment she was released on giving due warning. It is the contention of the management that the concerned workman was in the habit of committing such misconduct.

7. The concerned workman i.e. WW-1 during her evidence disclosed that in the month of September, 1991 she fell sick and for which she went to colliery hospital at Nichitpur for her treatment and remained under treatment for 10/12 days and thereafter she was declared medically fit by the doctor of the said hospital and then she went to her place of duty with a view to resume her duty and met the Personnel Officer with her certificate of fitness but the said Personnel Officer refused to allow her to resume her duty. On the contrary management dismissed her from service, on the basis of the report submitted by the Enquiry Officer. She disclosed that before holding such enquiry proceeding against her neither chargesheet was served upon her nor any notice of enquiry was communicated to her and for which she was deprived of defending her case. Considering the evidence of WW-1 i.e. the concerned workman it is clear that in the month of September, 1991 she did not attend to duty. Her contention is that she fell ill and remained under treatment at colliery hospital at Nichitpur. The defence which the concerned workman has taken in course of her evidence appears to be a new story as because of the fact that in the written statement she did not make any whisper about her ailment and remaining under treatment at Nichitpur colliery Hospital. Accordingly there is sufficient reason to believe that the concerned workman created this story for her own interest while she deposed before this Tribunal. There is also no whisper in the written statement of the concerned workman that Personnel Officer refused to allow her to resume duties when 10/12 days after her recovery she came to her place.

of duty with medical certificate of fitness issued by the doctor of colliery hospital which she disclosed during her evidence. As such there is sufficient reason to believe that she also created this new story for her relief. No explanation is forthcoming what step she took when she was not allowed to resume her duties by the P.O. Considering the facts and circumstances I find no dispute to hold that from September, 1991 till the order of dismissal passed on 29-10-92 the concerned workman was not available. Therefore, the plea taken by the concerned workman about the reason of her absence finds no basis at all. There is sufficient reason to believe that she remained herself absent for a long period unauthorisedly. Had that not been so she definitely at the very initial outset would try to defend herself from the allegation in question when domestic enquiry was started against her.

8. There is no dispute to hold that domestic enquiry was started against the concerned workman in view of chargesheet issued. It is seen that domestic enquiry was held *ex parte* and management in their pleading explained why the said enquiry was held *ex parte* against the concerned workman. Onus is on the management to establish that domestic enquiry held against the concerned workman was fair, proper and in accordance with the principle of natural justice. I find no hesitation to say that inspite of getting ample opportunity the management did not consider necessary to submit paper relating to domestic enquiry or to adduce evidence in support of the same. They have also failed to produce the newspaper to show that copy of chargesheet and enquiry notice were published in the newspaper. As such there is no scope to accept the contention of the management that chargesheet and copy of enquiry notice were duly served upon the workman. Before holding domestic enquiry *ex parte* against any workman onus absolutely rests on the management to establish that they exhausted all processes in the matter of issuance of chargesheet and enquiry notice to the delinquent workman before the Tribunal in course of hearing. I find no hesitation to say that the management inspite of getting sufficient opportunities have failed to perform duties on their part. They also did not consider necessary to submit the domestic enquiry paper for perusal of this Tribunal. Accordingly, relying on the facts disclosed in the written statement-cum-rejoinder submitted by the management there is no scope at all to uphold the charge brought against the concerned workman.

9. It is fact that concerned workman was absent from the month of September, 1991 till the order of dismissal passed against her. In view of my discussion above I am of the view that the concerned workman has failed to explain to the satisfaction of this Tribunal that under compelling circumstances she had to remain herself absent from duty. The concerned workman has also failed to submit any paper to show that she informed the reason of her absence to the management. The plea of her ailment which

she took in course of her evidence cannot be accepted as it was not her case which she made out in her written statement. It is fact that medical papers on prayer of the concerned workman were called for from the Medical Officer, Nichitpur Colliery, in course of this case. As the said papers have not been produced there is no reason to uphold the contention of the workman that she was actually lying ill during the period in question.

10. However, as the management have failed to establish that domestic enquiry held against the concerned workman was fair, proper and in accordance with the principle of natural justice and also as the management have failed to establish the charge brought against the concerned workman there is sufficient reason to draw conclusion that order of dismissal passed against the concerned workman is liable to be vitiated and she deserved to get her reinstatement in service.

In the result, the following Award is rendered:—

“The action of the management of Nichitpur Colliery of M/s. BCCL in dismissing Smt. Budhani Kamin, Ex-Wagon Loader only on the ground of unauthorised absence with effect from 1-9-91 from the service of the company with effect from 29-10-92 is not justified. Consequently, she is entitled to be reinstated to her original post with 25% back wages from the date of receipt of this reference for adjudication by this Tribunal. However, she will be entitled continuity of service from the date of her dismissal to the date of her reinstatement.”

The management is directed to implement the Award within three months from the date of publication of the Award in the Gazette of India in the light of the observation made above.

B. BISWAS, Presiding Officer.

नई दिल्ली, 25 नवम्बर, 2003

का.आ. 3435.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II, धनबाद के पंचाट (संदर्भ संख्या 108/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[सं. एल. 20012/559/2000-आई. आर. (सी. I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 25th November, 2003

S.O. 3435.—In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 108/2001) of the Central Government Industrial Tribunal/Labour

Court, II-Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 21-11-2003.

[No. L-20012/559/2000-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, AT DHANBAD

PRESENT:

Shri B. Biswas, Presiding Officer

In the matter of Industrial Disputes under Section
10(1)(d) of the I.D. Act, 1947.

Reference No. 108 of 2001.

PARTIES:

Employers in relation to the management of
M/s. B.C.C.L. and their workman.

APPEARANCES:

| | |
|----------------------------|---|
| On behalf of the Workman | : Mr. N.G. Arun, Authorised Representative RCMS. |
| On behalf of the employers | : Mr. D.K. Verma, Advocate. |
| State | : Jharkhand. |
| Industry | : Coal |

Dated, Dhanbad the 6th November, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/559/2000(C-I) dated 22nd March, 2001.

SCHEDULE

"Whether the demand of the Union for regularisation of Sri Prithbi Chouhan as Cap Lamp Clerk in Gr. III from 1987 is proper and justified? If so, to what relief the concerned workmen entitled?"

2. In this reference both the parties appeared through their respective authorised representatives, but failed to file W.S. It reveals from the record that the instant reference is pending for filing W. S. by the parties since 23-4-2001 although sufficient opportunities were given to them. Therefore, there is reason to believe that they are not interested to proceed with the instant reference. Under such circumstances, a 'No dispute' Award is rendered and

the instant reference is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer.

नई दिल्ली, 25 नवम्बर, 2003

का.आ. 3436.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II, धनबाद के पंचाट (संदर्भ संख्या 99/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[सं. एल. 20012/551/2000-आई. आर. (सी. I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 25th November, 2003

S.O. 3436.—In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 99/2001) of the Central Government Industrial Tribunal/Labour Court, II-Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 21-11-2003.

[No. L-20012/551/2000-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No.2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial dispute under Section
10(1)(d) of the I.D. Act, 1947.

Reference No. 99 of 2001

PARTIES:

Employers in relation to the management of
M/s. BCCL and their workman.

APPEARANCES:

| | |
|----------------------------|---|
| On behalf of the workman | : Smt. Shanichari the concerned workman. |
| On behalf of the employers | : Mr. S. N. Ghosh, Advocate. |

State : Jharkhand

Industry : Coal.

Dhanbad, the 6th November, 2003.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/551/2000(C-I), dated, the 22/26/3/2001.

SCHEDULE

"Whether the demand of the RCMS from the management of M/s. BCCL for employment to Smt. Shanichari Devi as the dependent of Late Baij Nath Bhuia is fair and justified? If so, to what relief is said Smt. Shanichari Devi entitled?"

2. In this reference both the parties appeared and filed their respective W.S. Subsequently, when the case was fixed for hearing the petitioner by filing a petition submitted her prayer to close the case on the ground stated therein. Learned Advocate for the management raised no objection on the prayer made by the petitioner. Heard both sides. The petition is considered and allowed. Accordingly, the instant reference case is disposed of on the basis of no dispute award.

B. BISWAS, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2003

का.आ. 3437.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II धनबाद के पंचाट (संदर्भ संख्या 97/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[सं. एल. 20012/550/2000-आई. आर. (सी. I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 25th November, 2003

S.O. 3437.—In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 97/2001) of the Central Government Industrial Tribunal/Labour Court. II-Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 21-11-2003.

[No. L-20012/550/2000-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 97 of 2001

PARTIES:

Employers in relation to the management of
M/s. BCCL and their workman.

APPEARANCES:

On behalf of the workman : Mr. K. N. Singh,
Advocate.

On behalf of the employers : Mr. S. N. Sinha,
Advocate.

State : Jharkhand

Industry : Coal.

Dated, Dhanbad, the 6th November, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/550/2000 (C-I), dated, the 22/26-3-2001.

SCHEDULE

"Whether the action of the management of M/s. BCCL in not correcting the date of birth of Sri Chandra Mohan Munda as 28-5-1954 is fair and justified? If not, to what relief is the concerned workman entitled?"

2. In this reference a Memorandum of settlement was filed by the parties under their signature. I heard both the side on the said Memorandum of settlement and I have also gone through the terms of settlement. I find that the terms of settlement are fair, proper and in accordance with the principles of natural justice. Accordingly I accept the same and pass an Award in terms thereof which forms part of the Award as annexure.

B. BISWAS, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2003

का.आ. 3438.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.एम.पी.डी.आई.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II, धनबाद के पंचाट (संदर्भ संख्या 216/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[सं. एल. 20012/579/98-आई. आर. (सी. I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 25th November, 2003

S.O. 3438.—In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 216/99) of the Central Government Industrial Tribunal/Labour Court. II-Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CMPDIL and their workman, which was received by the Central Government on 21-11-2003.

[No. L-20012/579/98-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 216 of 1999

PARTIES:

Employers in relation to the management of
CMPDIL and their workman

APPEARANCES:

On behalf of the workman : None.

On behalf of the employers : None.

State : Jharkhand Industry : Mine Planning

Dated, Dhanbad, the 6th November, 2003

ORDER

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/579/98-IR(C-I), dated, the 17th May, 1999.

SCHEDULE

KYA SHRI INDU MODAK VIDHAI CANTEEN
KEY KARMKAR HONEY KE NATEY CMPDIL
KEY SIDHEY KARMAKAR MANEY JANNEY
CHAHIYA? YADI HA TO IS SAMBANDH MEY
KYA DINANK 15-6-98 SEY THEKEKI SAMAPTI
PAR UNKI SEVA SAMAPTA KIYA JANA
VIDHIBAT EVAM NAYASANGAT HAI YADI
NAHI TO KARKAR KIS RAHAT KEY PATRA
HAI?"

2. In this reference neither of the parties turned up before this Tribunal. It is seen from the record that the instant reference was received by this Tribunal on 10-6-99

and since then it is pending for disposal. Registered notices and show cause notices were issued to the workman as well as the management but in spite of the issuance of notices they failed to turn up. In terms of Rule 10B of the I. D. Central Rules, 1957 submission of W. S. by the concerned workman within 15 days is a mandatory one. The concerned workman not only violated the said provision of the Rules but also did not consider necessary to give any response to the notices issued by this Tribunal. In natural course the question which will arise is what will be the fate of the reference made by the Ministry for its disposal. The reference is made on the basis of dispute raised by the concerned workman/union. Naturally responsibility rests with the concerned workman/union and the management to assist the Court to dispose of the reference in issue on merit. In view of the decision of the Hon'ble Apex Court reported in 2002(94) FLR 624 it will not be just and proper to pass 'No dispute' Award when both the parties remain absent. There is also no scope to answer the reference on merit in absence of any W.S. and available documents. There is no dispute to hold that when any reference is made it is expected to be disposed of on merit but when the parties do not take any step or do not consider even to file W.S. such expectation to dispose of the reference on merit comes to an end. It is not expected that for years together the Court will pursue the matter suo moto with the expectations for appearance for the workman and the management in spite of issuance of registered notices. As per I. D. Act the workman excepting under provision of Section 2A is debarred from raising any industrial dispute. The disputes are mainly raised by the union for their workman. These unions in spite of receiving notices do not care to appear before the Court for the interest of the workman and as a result they have been deprived of getting any justice until and unless the attitude of the union is changed I consider that this uncalled for situation will persist. Definitely it is the duty of the Court to dispose of the reference on merit but it depends on the cooperation of both sides. Here the record will clearly expose that sufficient opportunities had been given to the workman/union but yielded no result. This attitude shows clearly that the workman side is not interested to proceed with the hearing of the case for disposal on merit.

Under the facts and circumstances, I also do not find any sufficient reason to drag on the case for an indefinite period. Accordingly as there is no scope to dispose of the reference in question on merit, the same is closed.

B. BISWAS, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2003

का.आ. 3439.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार का.को.लि.

के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II, धनबाद के पंचाट (संदर्भ संख्या 142/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[स. एल. - 20012/284/98-आई. आर. (सी.-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 25th November, 2003

S.O. 3439.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 142/99) of the Central Government Industrial Tribunal/Labour Court, II-Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 21-11-2003.

[No. L-20012/284/98-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD PRESENT:

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 142 of 99

PARTIES:

Employers in relation to the management of the Gen. Manager Lodna Area of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the workman : None.

On behalf of the employers : Shri R. R. Prasad

State : Jharkhand Industry : Coal.

Dated: the 6th November, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/284/98/IR(CM-I), dated, the 9th February, 1999.

SCHEDULE

"Whether the action of the management of Lodna Area of M/s. BCCL in dismissing Md. Irfan Motor Winder w.e.f. 25-4-97 from the service of the company is justified? If not, to what relief the workman is entitled?"

2. In this reference a settlement petition has been filed by the parties under their signature. I heard on the said petition of settlement and I find that the terms contained therein are fair, proper and in accordance with the principles of natural justice. Accordingly I accept the said settlement and pass an Award in terms thereof which forms part of the Award as Annexure.

B. BISWAS, Presiding Officer

FORM - H
(See Rule - 58)

MEMORANDUM OF SETTLEMENT ARRIVE AT BETWEEN THE MANAGEMENT OF LODNA AREA OF M/S BCCL AND THEIR WORKMAN REPRESENTED BY RASHTRIYA COLLIARY MAZDOOR SANGH.

| Representing Management | Representing Union/ workman |
|---|---|
| 1. Shri M.D. Singh Dy. Chief Personnel Manager, Lodna Area. | 1. Shri Satendra Singh, Area Secretary, Rems, Lodna Area |
| 2. Shri S. K. Sinha Personnel Manager, Lodna Area | 2. Md. Infran, Ex-Motor Winder, Lodna Power House. Deptt. |
| 3. Shri H. Suren, Personnel Manager, Lodna Colliery. | |

SHORT RECITAL OF THE CASE

Md. Irfan S/o Md. Yasin, Ex-Motor Winder, Lodna Power House Lodna Colliery, P.No. 877894 was dismissed from the service of the company for repairs and disorderly behaviour on and from 24-4-1997. An I. D. was raised by him before the ALC(C), Dhanbad which was ended in failure. The matter was subsequently referred to for adjudication and same is pending before the Tribunal.

His case was taken up by the RCMS union at Hqes. level and after discussion on several dates the competent authority is kind enough to according his approval for reinstatement of Shri Md. Irfan for the following terms and conditions. The approval has been communicated vide letter No. BCCL/PERIR/RESIST/2001/10522-25 dated 11/14-12-2001 issued under the signature of General Manager, (PERS) BCCL, Koyla Bhawan, Dhanbad.

TERMS OF SETTLEMENT

1. Md. Irfan has been found fit for duty by the Medical Board, Lodna vide Ref. No. BCCL/GM/LA/PER/EST/MED/2002/16 dated 2-1-2002.

2. He has not withdrawn his CMPF accumulation nor gratuity so far as certified vide letter No. BCCL/L/PM/2002:

14 dated 3-1-2002 issued by the Personnel Manager, Lodna Colliery.

3. The workman has already submitted one written undertaking dated 23-1-2002 that he will not continue his case at tribunal or any of the court and the management will also follow the same.

4. The workman has already submitted one written undertaking dated 22-2-2002 that he will discharge his duty with full loyalty to the best interest of the company and will not indulge in any of the misconduct after resumption of duty.

5. The identity of the workman has been established by the Personnel Manager, Lodna Colliery.

6. He shall not be entitled for any wages for monetary benefit whatsoever, for the period of idleness i.e. from the date of his dismissal to date of joining duty shall treated as dies-non. He shall be entitled to annual increment only after completion of one year service after his reinstatement.

7. His continuity of service for the purpose of payment of gratuity shall be allowed.

8. The pension scheme shall be applicable for him if he is a member of the said scheme.

9. He will be posted at Bastacolla Area.

Both the parties after going through the consent of the settlement put their signature.

| | |
|--|--|
| On behalf of the management | On behalf of the union/ workman |
| (M. D. SINGH) Dy. Chief Personnel Manager Lodna Area | (SATENDRA SINGH) Area Secretary, RCMS, Lodna Area. |
| (S. K. SINHA) Personnel Manager, Lodna Area | (M. D. IRFAN) Ex-Motor Winder, Lodna Power House. |
| (H. SUREN) Personnel Manager, Lodna Area | Deptt. |
| Dated: | Witness—Sd./ |

नई दिल्ली, 25 नवम्बर, 2003

का.आ. 3440.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II, धनबाद के पंचाट (संदर्भ संख्या 34/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[सं. एल.- 20012/361/99-आई. आर. (सी. -I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 25th November, 2003

S.O. 3440.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 34/2001) of the Central Government Industrial Tribunal/Labour Court, II-Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 21-11-2003:

[No. L-20012/361/99-IR-(C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947.

Reference No. 34 of 2001

PARTIES:

Employers in relation to the management of
Patherdih Coal Washery of M/s. BCCL and their
workman.

APPEARANCES:

On behalf of the workman : Mr. K. Chakravorty,
Advocate.

On behalf of the employers : Mr. S. N. Sinha,
Advocate.

State : Jharkhand

Industry : Coal.

Dated, Dhanbad, the 6th November, 2003

AWARD:

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/261/99-(C-I), dated, the 2nd February, 2000.

SCHEDULE

"Whether the action of the management of Washery of BCCL in dismissing Shri Srilal Hansda from the services of the company with effect from 11-10-98 is justified? If not, to what relief the workman is entitled?"

2. In this reference both the parties appeared through their learned Advocates but did not file W.S. on their behalf. The attitude of the parties shows clearly that they are not interested to proceeding with the hearing of the case. Under such circumstances an inference can easily

be drawn that no dispute is existing between them. Accordingly a 'No dispute' is rendered and the instant reference is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties. presently.

B. BISWAS, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2003

का.आ. 3441.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 114/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-11-2003 को प्राप्त हुआ था।

[सं. एल.-20012/494/97-आई आर (सी.-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 25th November, 2003

S.O. 3441.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 114/98) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 21-11-2003.

[No. L-20012/494/97-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 114 of 1998

PARTIES:

Employers in relation to the management of Khoodia Colliery of M/s. ECL and their workman.

APPEARANCES:

On behalf of the workman : None.

On behalf of the employers : Mr. B. M. Prasad,
Advocate.

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 6th November, 2003

ORDER

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/494/97-IR(C-I), dated the 13th April, 1998.

SCHEDULE

"Whether the action of the management of Khoodia Colliery of ECL in stopping Sri Kurban Mia from duty with effect from 23-5-96 is justified? If not, to what relief is the workman entitled?"

2. In this reference neither the concerned workman nor his representative appeared. However though the management side appeared through their learned Advocate, did not file their W.S. It is seen from the record that the instant reference was received by this Tribunal on 23-4-98 and since then it is pending for disposal. As the concerned workman failed to appear before this Tribunal, registered notices were issued to the workman side but inspite of the issuance of notices they failed to appear before this Tribunal. They also did not even respond to the notices issued by this Tribunal. In natural course the question will arise what will be the fate of the reference made by the Ministry for its disposal. The reference is made on the basis of the dispute raised by the concerned workman/union. Naturally responsibility rests with the concerned workman/union to assist the Court to dispose of the reference on merit. In view of the decision of the Hon'ble Apex Court reported in 2002(94) FLR 624 it will not be just and proper to pass 'No dispute' Award when both the parties remain absent. There is also no scope to answer the reference on merit in absence of any W.S. and available documents. There is no dispute to hold that when any reference is made it is expected to be disposed of on merit but when the parties do not take any step or do not consider even to file written statement documents such expectation to dispose of the reference on merit comes to an end. It is not expected that for years together the Court will pursue the matter suo moto with the expectations for appearance of the workman inspite of issuance of registered notices. As per I.D. Act the workman excepting under provisions of Section 2A is debarred from raising any industrial dispute. The disputes are mainly raised by the Union for their workmen. These unions inspite of receiving notices do not care to appear before the Court for the interest of the workman and as a result they have been deprived of getting any justice. Until and unless the attitude of the union is changed, I consider that this uncalled for situation will persist. Definitely it is the duty of the Court to dispose of the reference on merit but it depends on the cooperation of both sides. Here the record will clearly expose that sufficient opportunities had been given to the workman/union but, yielded no result. This attitude shows clearly that the workman side is not

interested to proceed with the hearing of the case for disposal on merit.

Under the facts and circumstances, I also do not find any sufficient reason to drag on the case for an indefinite period. Accordingly as there is no scope to dispose of the reference in question on merit, the same is closed.

B. BISWAS, Presiding Officer

नई दिल्ली, 28 नवम्बर, 2003

का.आ. 3442.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-11-2003 को प्राप्त हुआ था।

[सं. एल.-40012/228/94-आई आर (डीयू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 28th November, 2003

S.O. 3442.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Post and their workman, which was received by the Central Government on 25-11-2003.

[No. L-40012/228/94-IR (DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL TAMIL NADU, CHENNAI-104

Thursday, the 25th day of September, 2003

PRESENT:

Thiru V. K. Thirunavukkarasu, B. Com. B. L.,
Industrial Tribunal

Industrial Dispute No. 9 of 1996

(In the matter of dispute for adjudication Under Section 10(1) (d) of the Industrial Disputes Act 1947 between the Workman and the Management of The Director of Postal Services, Southern Region, Madurai-625002).

BETWEEN:

Shri M. Murugan,
1B Nachi Nagar Street,
Virudhunagar-626001

AND

The Director of Postal Services,
C/o. Post Master General,
Southern Region, Madurai-625002.

REFERENCE: Order No. L-40012/228/94-IR(DU)
dated 27-12-95 Ministry of Labour,
Govt. of India, New Delhi.

This dispute coming on for final hearing on Friday, the 12th day of September 2003, upon perusing the reference, Claim and Counter statement and all other material papers on record and upon hearing the arguments of Smt. S. Jothivani, advocate appearing for the workman and the Management being absent and set exparte, and this dispute having stood over till this day for consideration, this Tribunal made the following.

AWARD

The Govt. of India, has referred the following issue for adjudication by this Tribunal :

"Whether the action of the management of the Post Department in terminating the service of Sri M. Murugan w.e.f. 16-3-93 is justified? If not, to what relief he is entitled?"

2. The Claim statement was filed by the Petitioner. Counter statement was filed by the Respondent.

3. The Respondent remained absent and has been set exparte. On behalf of Petitioner/workman, Exs. W1 to W9 were marked by consent. On behalf of Respondent/Management, Exs. M1 to M12 were marked by consent.

4. The petitioner Sh. M. Murugan was appointed as Short Duty Postal Assistant at Virudhunagar Division. Ex. W1 dt. 5-4-91 is the copy of the Charge Memo. Ex. W2 dt. 10-11-91 is the copy of the order permitting the petitioner to join duty. Ex. W3 dt. 2-12-91 is the copy of the Presenting Officer's brief. Ex. W4 dt. 16-12-91 is the copy of the Defence brief. Ex. W5 dt. 18-3-92 is the copy of the Enquiry Officer's report. Ex. W6 dt. 15-4-94 is the copy of the representation against the Inquiry Officer's report. Ex. W7 dt. 8-7-92 is the copy of the Order of punishment. Ex. W8 dt. 11-7-92 is the copy of Appeal submitted by the petitioner. Ex. W9 dt. 16-3-1992 is the copy of the Appellate order. The petitioner left the office on 8-1-1991. He has reported for duty on 10-3-91. But he was permitted to rejoin the duty only on 25-3-91. A Charge memo was issued to the petitioner on 5-4-91 under the original of Ex. W1. The Senior Superintendent of Post Offices, Madurai City Division was appointed as Disciplinary Authority by the management. On 5-6-1991 Th. M. Chelliah was appointed as Enquiry Officer. Th. U. Venkatesan was appointed as the Presenting Officer. The petitioner nominated Th. C. Ramachandran as his Defence Assistant to defend the case and the enquiry was commenced on 18-6-91. The prosecution examined 5 witnesses and the petitioner

examined two witnesses. The prosecution submitted its Written brief by the Presenting officer on 2-2-1991. The petitioner submitted his Statement of Defence on 16-12-91. The enquiry officer submitted his enquiry report on 10-1-1992. It is an admitted fact that the enquiry officer in his Enquiry report has at no where stated that whether the charges levelled against the petitioner were proved or not. The Enquiry officer submitted another report on 18-3-1992. It shows that the charges levelled against the petitioner were proved and the petitioner was asked to submit his explanation against the Second Enquiry report by letter dated 18-3-92. The petitioner submitted his explanation on 15-4-92. The 2nd Respondent has passed the order on 8-7-92 imposing the punishment of Removal from service with immediate effect. Aggrieved by the order of the 2nd respondent, the petitioner preferred an appeal on 11-7-92. On 16-3-93 the removal order has been modified. The Punishment of removal from service is modified as compulsory retirement.

5. The petitioner remained absent from 8-1-1991 to 24-3-91. The charge memo shows that the petitioner failed to maintain absolute integrity and devotion to duty. The case of the petitioner is that he has not committed any offence that too only absent himself duty from 8-1-91 to 10-3-91 that to the extraordinary circumstances out of his control and therefore is no monetary loss to the Government, since the fresh amount was made good by the father of the petitioner and as such, removal from service modified into Compulsory retirement amounts to non-consideration excessive, and in violation of the principles of natural justice. The petitioner was not supplied with copies of documents enlisted in Annexure-III of Articles of charges and even after the request made by the petitioner, he was not issued the same and as such the petitioner has been denied reasonable opportunity during the conduct of the enquiry in defending his case. It is an admitted fact that the Enquiry officer at the time of issuance of the second enquiry report has not cancelled, the first enquiry report issued by him and as such, the Enquiry report submitted by the Enquiry officer is in violation of the principles of natural justice.

6. It is an admitted fact that the locker was not opened in the presence of any of the local or outside witnesses and as such, holding the charge against the petitioner with regard to the misappropriation and on credit of money, is not legal. The above facts will show that the petitioner is not an erred official. The above facts will show that the domestic enquiry was not conducted in a fair and proper manner. Hence the orders of removal from service and compulsory retirement is not legal. The action of the management of the Postal department in terminating the service of the petitioner Th. M. Murugan, w.e.f. 16-3-93 is not justified. This point is answered against the respondent management.

7. In the result, award is passed holding that the action of the management of the Postal department in terminating the service of Shri M. Murugan w.e.f. 16-3-93 is not justified. The petitioner/workman is entitled to be reinstated with backwages, continuity of service and all other attendant benefits. Award is passed accordingly. No costs.

Dated at Chennai, this 25th day of September 2003.

THIRU V.K. THIRUNAVUKKARASU, Industrial Tribunal

WITNESSES EXAMINED

For Both sides : None

DOCUMENTS MARKED

For Workman :

- | | | |
|----------------|---|--------------|
| Ex.W1/5-4-91 | : Memo of charges issued to petitioner-worker | (Xerox) copy |
| Ex.W2/10-11-91 | : Order permitting joining duty of petitioner-worker | .. |
| Ex.W3/2-11-91 | : Written brief of presenting officer | .. |
| Ex.W4/16-12-91 | : Letter from petitioner union to the Respondent management | .. |
| Ex.W5/18-3-92 | : Inquiry officer's report | .. |
| Ex.W6/15-4-92 | : Representation by the petitioner union against Inquiry officer's report | .. |
| Ex.W7/8-7-92 | : Dismissal order | .. |
| Ex.W8/11-7-92 | : Appeal preferred by the petitioner worker against the dismissal order | .. |
| Ex.W9/16-3-93 | : Order of Appellate Authority | .. |

For Management :

- | | | |
|-----------------|--|--------------|
| Ex.M1/30-7-2002 | : Counter statement filed by Respondent management | (Xerox) copy |
| Ex.M2/29-4-91 | : Charge memo issued to petitioner-worker | .. |
| Ex.M3/-3-92 | : Report of Enquiry officer | .. |
| Ex.M4/8-7-92 | : Proceedings of S.S.P.Os., Madurai Divn. | .. |
| Ex.M5/11-3-93 | : Proceedings of P.M.G., Madurai | .. |
| Ex.M6/-7-94 | : Petition filed by Petitioner worker | .. |

Ex.M7 — : Comments on the petition offered by DPS, O/o Post Master General, Madurai (Xerox) copy

public utility service for the purposes of the said Act for period of six months.

[No. S-11017/2/97-IR(PL)]

Ex.M8/5-10-94 : Rejoinder filed by the Petitioner worker "

J. P. PATI, Jt. Secy.

नई दिल्ली, 9 दिसम्बर, 2003

Ex.M9 — : Comments on the Rejoinder offered by DPS, O/o Postmaster General, Madurai "

का.आ. 3444.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा दिनांक 11 जनवरी, 2000 को भारत के राजपत्र, असाधारण, भाग-II, खण्ड 3 (ii) में प्रकाशित भारत सरकार के श्रम मंत्रालय की दिनांक 04 जनवरी, 2000 को अधिसूचना सं.आ. संख्या 32(अ) में निम्नांकित संशोधन करती है :

Ex.M10/-2-2000 : Claim statement filed by Petitioner worker "

Ex.M11 — : Comments on the Claim statement offered by the SSPOs, Virudhunagar Division. "

उक्त अधिसूचना में "इस प्रयोजन हेतु केन्द्रीय सरकार द्वारा मान्यता प्राप्त नियोक्ता संगठनों के परामर्श से धारा 4 के खण्ड (च) के अन्तर्गत केन्द्रीय सरकार द्वारा नियुक्त" शीर्षक के अन्तर्गत, क्रमांक 29 के सामने दी गई प्रविष्टि के लिए निम्नलिखित प्रविष्टि प्रतिस्थापित की जाएगी, अर्थात् :—

Ex.M12 — : Brief History offered by the SSPOs, Virudhunagar Division, Virudhunagar "

"श्री एम. सुब्रमनियन, कार्मिक निदेशक, मदुरा कोट्स, 144-एम.जी. रोड, बंगलौर।"

नई दिल्ली, 8 दिसम्बर, 2003

का.आ. 3443.—केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अवैध है कि कोयला उद्योग में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 04 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

[संख्या यू-16012/01/98-सा.सु.-I]

संयुक्ता राय, अवर सचिव

New Delhi, the 9th December, 2003

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

S.O. 3444.—In exercise of the powers conferred by Section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Labour No. 32(E), dated the 4th January, 2000 published in the Gazette of India, Extraordinary, Part II, Section 3 (ii) dated the 11th January, 2000.

[संख्या एस-11017/2/97-आई. आर. (पी.एल.)]

जे.पी. पति, संयुक्त सचिव

New Delhi, the 8th December, 2003

S.O. 3443.—Whereas the Central Government is satisfied that the public interest required that the services in the Coal Industry which is covered by item 04 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act.

In the said notification under the heading "Appointed by the Central Government under clause (f) of Section 4 in consultation with the organizations of employers recognized by the Central Government for the purpose" for the entries against S. No. 29, the following entries shall be substituted namely :—

"Sh. M. Subramanian, Personnel Director, Madura Coats, 144-M.G. Road, Bangalore."

Now, therefore, in exercise of the powers conferred by sub clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a

[No. U-16012/1/98-SS.I]

SANJUKTA RAY, Under Secy.